

THE ADMINISTRATION OF BAIL IN FULTON COUNTY, GEORGIA
1950-1978: AN EXAMINATION OF THE USE OF DISCRETION
IN ONE ASPECT OF CRIMINAL JUSTICE

A DISSERTATION
SUBMITTED TO THE FACULTY OF ATLANTA UNIVERSITY
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

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ATLANTA, GEORGIA
AUGUST 1980

R-101 R-152

ABSTRACT

Political Science

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The Administration of Bail in Fulton County, Georgia
1950-1978: An Examination of the Use of Discretion
In One Aspect of Criminal Justice

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Dissertation dated - May 1980

This dissertation is a study of the use of discretion in the bail system and also a study of the oppressive aspects of the bail system in the United States in general and Fulton County, Georgia in particular. Throughout the criminal justice system the fate of a greater number of lives is determined by the discretion of judicial authorities. These judicial authorities determine whether or not defendants will be incarcerated and if so, for how long. Often these judicial authorities are neither aware of nor sensitive to problems and frustrations of the defendants. Hence the discretion of judicial authorities might be detrimental to the defendant. Because of discretion in the bail-bonding system, men and women in American are held in jails and experience prison life for extended periods of time before their trials because they are not able to acquire

bail. Often these people are found innocent of any wrong doing.

The problems this study focuses upon are to determine if through the use of discretion bail is used as a tool of social control for political activists, whether or not bail for Black people is higher than that of white people committing the same and whether or not bail for males is higher than that of females committing the same crime. Also this study focuses upon whether or not bail is higher during periods of political and/or social disorder as compared to relatively stable periods in our society. This study was based upon primary data compiled from the files of the Fulton County Jail and the Atlanta Historical Society archives. Additionally, data were generated from the employment of three major research techniques. The techniques were interviewing, administering questionnaires and a survey of the literature. While conducting interviews, open ended questions were used in order to obtain meaningful responses from those persons being interviewed. The persons interviewed were judges, lawyers and bondsmen in Fulton County, Georgia.

The files of the Fulton County Jail and the Atlanta Historical Society archives were surveyed to get an accurate account of bail given to defendants for certain crimes with data stratified as to race, age, occupation and sex of the defendants. The crimes surveyed were first offender cases of theft by taking, murder, rape, prostitution, and burglary.

The Random Start Regular Interval method of collecting data was employed.

In reviewing the literature, the libraries of Atlanta University, Atlanta Historical Society, Emory University, Georgia State University, Georgia Institute of Technology, Kennesaw College, the Atlanta Public Library, and my personal library were most helpful.

This study is composed of six chapters and a conclusion to empirically analyze the bail system in its functional processes and to gauge the impact of judicial discretion on the administration of bail. Chapter I presents the introduction, methodology and a review of the literature.

In Chapter II, a historical analysis of the bail system is given. The origin of the present bail system is discussed and an explanation of the nature, purpose and use of bail is given. Methods of obtaining pretrial release are surveyed to determine how each method will benefit a certain segment of the population. Also, included in this chapter are Supreme Court Cases pertinent to bail and its administration to show the legal foundation upon which the bail system and bondsmen operate.

Chapter III assesses the characteristics of recipients of bail. Here, a general discussion of bail and judicial discretion, as they relate to the poor, minorities and Black political activists is presented in an effort to measure the difference in bail administration if any exist. Case studies of the effects that the administration of bail

and judicial discretion had on the Black Panthers, Martin Luther King, Jr., Angela Davis, and Hosea Williams are presented.

Chapter IV is an analysis of the results of the questionnaires and interviews administered. The findings here are juxtaposed to that of the literature in hopes of supplementing material on the subject matter.

Chapter V is an analysis of data collected from the Fulton County Jail Dockets and the files of the Fulton County Jail. The data are analyzed to determine if judicial discretion in the awarding of bail is evenly and justly administered to all people regardless of race, age, sex or occupation. The period covered is from 1950-1978.

Chapter VI determines the relationship of social change and/or social disorder to change in the administration of bail. Primarily this section seeks to discover if through the use of judicial discretion bail is a tool of social control. The last part of this chapter is an analysis of the reaction of the bail system to social and political disorder.

The final section of this research effort consist of the conclusion of this study. This study concludes that through judicial discretion, blacks, poor people, males and political activists are victimized and discriminated against in the administration of bail in Fulton County, Georgia in particular and the United States in general. It also concludes the present system of administering bail is not economically sound. It further concludes that bail is a means of social

control and that bail has been used to drain funds and disband politically active groups in the United States. A final conclusion of this study is that before racism, sexism and other types of discrimination are alleviated in the bail system, it has to first be alleviated from the entire society.

ACKNOWLEDGMENTS

This dissertation is dedicated to my parents, who are scholars in their own right, but because of the social, economic and political conditions of their times were not afforded the opportunity for higher education, and it is also dedicated to my wife who stood by me and gave me encouragement throughout this whole research project.

To my sisters, brothers, mother-in-law and father-in-law, I am indebted to them for believing in me and for the encouragement they extended to me during my research project. To Dr. Larry Moss and Dr. William Boone, I will always appreciate the time and effort you two gave me in order that I might complete this project. To the National Fellowship Fund, I say "thank you" for making my education at Atlanta University possible and to Ms. Julia Blalock for typing the final draft of my dissertation.

TABLE OF CONTENTS

Chapter	Page
I. INTRODUCTION AND METHODOLOGY	1
Introduction	1
Review of the Literature	4
Definition of Concepts	8
Methodology	9
II. NATURE AND ORIGIN OF AMERICAN BAIL SYSTEM	18
Purpose and Use of Bail	23
Methods of Obtaining Pretrial Release .	26
(1) Personal Bond	26
(2) Property Bond	27
(3) Cash Bond	27
(4) Ten Percent Deposit Provision . .	28
(5) Citation	28
Procedures of Bail	29
Supreme Court Cases Revelant to Bail . .	30
III. GENERAL ANALYSIS OF THE BAIL SYSTEM AS IT RELATES TO SELECTIVE GROUPS	34
Black Political Activists, Poor People and Minorities	35
Bondsman	50
IV. ATTITUDINAL SURVEY OF ADMINISTRATORS OF BAIL IN FULTON COUNTY	60
V. AN ANALYSIS OF BAIL AWARDED IN FULTON COUNTY 1950-1978 BAIL REQUIRED BY RACE AGE, AND SEX	70

VI. SOCIAL CHANGE AND SOCIAL DISORDER AND THEIR EFFECT ON THE ADMINISTRATION OF BAIL	84
The Effect of Social Disorder on the Administration of Bail	84
VII. CONCLUSIONS	105
APPENDICES	115
BIBLIOGRAPHY	149

LIST OF TABLES

Tables	Page
MEDIAN BAIL BY RACE AND AGE	72
5-1 Theft by Taking	72
5-2 Rape	73
5-4 Murder	76
5-6 Burglary	77
5-7 Prostitution	78
PERCENTAGE OF DEFENDANTS DENIED BAIL BY RACE AND AGE	75
5-3 Rape	75
5-5 Murder	76
MEDIAN BAIL BY RACE AND SEX	80
5-8 Theft by Taking	80
5-9 Murder	81
5-11 Burglary	82
PERCENTAGE OF DEFENDANTS DENIED BAIL BY RACE AND SEX	82
5-10 Murder	82
DIFFERENCE IN BAIL REQUIRED BY PERIODS - BY RACE AND SEX	88
6-1 Theft by Taking	88
6-2 Rape	90

	Page
6-4 Murder	91
6-6 Burglary	94
6-7 Prostitution	95
DIFFERENCE IN BAIL REQUIRED BY PERIODS: PERCENTAGE OF DEFENDANTS DENIED BAIL	90
6-3 Rape	90
6-5 Murder	92

CHAPTER I

INTRODUCTION AND METHODOLOGY

Introduction

Throughout American history, people have been socialized to believe that this land embodies the essence of freedom and democracy. From the cradle to the grave the American people are challenged to pledge their allegiance and loyalty to this country and are labeled "radicals" if they do not. Sections of legal documents such as the Constitution and the Declaration of Independence stress the democratic principles upon which this nation was purportedly founded. However, the administration of these documents and attendant laws have proven contrary to the very essence of the concepts freedom, democracy, and equality for all. It seems that there is a dual administration of law, one for white people and another for Black people and other minorities. One must keep in mind that this government is not one of laws but of a few white men who manipulate the laws to maintain their dominant position and culture.

The United States Congress is composed almost entirely of white men, as is the judiciary and the executive branches of government (the three power centers of the United States

government). They are responsible for the laws which govern in the oppressive, brutal manner that we experience today. Justice seems to elude the poor, the Black, and the friendless because of their status. These people are victimized by "White Justice" that prevails throughout the American criminal justice system.

Throughout the American criminal justice system, the fate of a great number of lives is determined by the discretion of judicial authorities. These judicial authorities determine whether or not defendants will be incarcerated and if so, for how long. Often these judicial authorities are neither aware nor sensitive to problems and frustrations of the defendants. Hence the discretion of the judicial authorities might be detrimental to the defendants.

While there exist problems in almost every aspect of the American criminal justice system because of the unchecked use of discretion, this study is primarily concerned with the use of discretion as it relates to the "bail system." This study should be useful given the fact that the end results of judicial discretion have laid a solid foundation of oppression through the administration and the procedural aspects of the bail system in the United States.

Men and women in America are held in jail and committed to prison life for prolonged periods of time before their trials simply because they are not able to acquire bail. Often these people are found innocent of any wrong doing. Yet, their incarceration is based on the decision of someone

that could very well have set bail lower or even released the defendants until their trial date.

The use of discretion is and can be expected in any judicial or criminal justice system. However, unchecked discretion exercised in a society characterized by racial and economic bias can have very disastrous effects for out-groups in that society. Much of the recent criticism of the bail system centers on the contention that because of this unchecked discretionary power within the system, it openly discriminates against the poor. Moreover, because of this unchecked discretion, bail is generally set in a routinely haphazard fashion such that what should be an informed, case by case judgment, is in fact largely mechanical.¹ As a result, racial, economic, and political characteristics of defendants charged with a crime could virtually assure that they will be systematically detained because of an inability to post bail and hence our concern over the use of judicial discretion in the administration of bail given the social, political, and cultural differences that exist within the American society.

In a general sense, this study focuses upon the role of discretion in the administration of bail. Specifically, it is a descriptive analysis of the impact of judicial discretion in the administration of bail in Fulton County,

¹Special Committee on Minimum Standards for The Administration of Criminal Justice, "Pretrial Release" (New York: American Bar Association 1968), p. 1.

Georgia from 1950 to 1978 upon various classes of people subject to this discretion.

Review of the Literature

Upon reviewing the existing literature concerning bail, a void was discovered in the area of the impact of judicial discretion on the administration of bail in the United States. Most of the existing literature centers around the procedural aspects of the administration of bail. Paul Wice and Ronald Goldfarb² are two writers who do an effective job in this particular area of the field.

There also exist works by writers such as Daniel Freed, Marshall Hout, and Sarah Blackburn,³ that offer a descriptive and historical analysis of the bail system in America. These works will prove useful to this present study because they provide an understanding of basic processes of bail which undergirds this analysis.

Pretrial release is deemed important to the strategy of defense lawyers and understanding those processes by which a defendant can be released is equally as important here. There are many works in criminology journals to

²See Paul Wice's Freedom for Sale, (Lexington, Mass: Heath and Company Publishers, 1974). Also in addition to Goldfarb's book Ransom, (New York: Harper and Row, 1965), some of his articles can be found in the following publications: New Republic, June 6, 1964; Reader's Digest, May 1964, Kiwanis Magazine, April 1964.

³See the following books: Daniel Freed, Bail in the United States, (Washington: National Conference on Bail and Criminal Justice, 1971). Sarah Blackburn, White Justice, (New York: Harper and Row, 1971).

support this notion.⁴ These works center around the contention that a defendant released before trial stands a better chance of being acquitted vis-a-vis a defendant incarcerated before trial. This body of data will be useful in trying to understand the problems a defendant and his lawyer will encounter if the defendant is detained.

Another sizeable body of data useful to this study is that data relating to the "courtship" between the administrators of bail and the bondsmen. Most of these data point to the fact that if there is a beneficiary from the present bail system, it is the bondsman.⁵

While all of these areas are necessary in any study of administration of bail (including the one at hand), the previously mentioned void in the literature is equally as important. The concern for the use of discretion should be widespread given the far reaching implications of the results of this discretion, which are most likely to be conditioned by extra legal factors.

⁴See the following articles: "Unconstitutional Administration of Bail," Criminal Law Bulletin, (Vol. 18, No. 6, July/August 1972), pp. 459-506; "Evaluation of the Dallas Pretrial Release Program," Southwestern Law Journal, Vol. 26, No. 3, August 1972) pp. 510-537; "Pretrial Release Under California Penal Code Section 853.6: An examination of Citation Release," California Law Review, (Vol. 60, No. 5, September 1972) pp. 1339-1370.

⁵See the following works: J. E. Conklin, Percentage Deposit Bail System--An Alternative to the Professional Bondsman, Journal of Criminal Justice, (Vol. 1, No. 4, Winter 1973) pp. 299-317; M. P. Kirby, "Evaluation of Pre-trial Release and Bail Bond in Memphis and Shelby County;" Wayne H. Thomas, Bail Reform in America 1977.

There are a few literary works extant which explore the role extra legal factors play on decision making. Most of this data, however, center on the broad category of the use of discretion in the "criminal justice" system and/or the legal system as a whole.⁶

However, Richard Quinney reminds us that social questions can influence the discretion of actors exercising authority within the criminal justice setting.⁷ Quinney feels that one must be aware that social differences and/or likenesses can determine the severity of the crime and the punishment. Hence Quinney indicates that the elites in society will determine what actions will be considered criminal and if possible exclude their own wrong doings in their definition of criminal behavior. If the elites can not successfully exclude themselves from this definition of criminal behavior, then they will simply use the apparatus of the systems (which they control) to cover up their wrong doing. As Quinney argued:

The key idea of social reality theory is that crime is socially defined, not inherent in behavior, but ... a judgment made by some about the actions and characteristics of others.⁸

⁶See Kenneth C. Davis, Discretionary Justice, (Baton Rouge: Louisiana State University Press 1969).

⁷See Richard Quinney, Social Reality of Crime, (Boston: Little, Brown, and Company, 1970).

⁸Ibid, p. 16.

Stuart A. Scheingold offers the observation that social perspective can render actions of the criminal justice system unfair or at least questionable.⁹ He states:

....social reality theory presents us with a view of social conflict that transcends struggle among class....social reality theory suggest the additional possibility of conflict among social grouping divided....on the basis of such factors as race, ethnicity or occupational interest.¹⁰

As stated before, Quinney and Scheingold shed light on the possibility of social factors affecting the smooth functioning of the criminal justice system. Their studies will be helpful to this project in conceptualizing those factors in relationship to the criminal justice system. However, whereas they generalized their efforts on the entire system, the purpose and importance of this research project is to demonstrate empirically how social and political factors impact upon decision making in one aspect of criminal justice, the administration of bail. An attempt will be made to explore the resulting situation of judicial discretion conditioned by social, political, economic, and cultural factors upon certain segments of society.

Therefore this research effort should be deemed as an attempt to fill the void existing in the literature concerning the impact of judicial discretion on the administration

⁹Stuart A. Scheingold, "Cultural Cleavage and Criminal Justice," The Journal of Politics, 40 (November 1978).

¹⁰Ibid., pp. 870-871.

of bail. While the present study focuses upon the administration of bail in Fulton County, the implications of the study are certain to impact upon the general level of understanding about the impact of judicial discretion on the administration of bail in the United States.

In reviewing the literature, the libraries of Atlanta University, Atlanta Historical Society, Emory University, Georgia State University, Georgia Institute of Technology, Kennesaw College, the Atlanta Public Library, and my personal library were most helpful. Also government documents, criminology publications and any other information pertinent to this research project were utilized.

Definition of Concepts

Bail - securing the release of a person from legal custody, by undertaking that the shall appear at the time and place designated and submit himself to the jurisdiction and judgment of the court.

Bailbond - an obligation signed by someone promising to pay the amount previosuly set by the court as bail if a defendant fails to appear in the court when required.

Bondsman - a person in business of posting bail for people being detained and accused of committing a crime.

Judicial Officer - unless otherwise indicated, any person authorized to bail or release a defendant before trial, sentencing or pending appeal in a United States Court.

Social Control - methods used by the criminal justice system to force people to act in a manner that maintains the status quo.

White Justice - partial justice administered by the white lawmakers throughout this county to maintain white dominance.

Methodology

This research project is generally centered around the impact of discretion on the administration of bail with a specific focus on the impact of judicial discretion upon the administration of bail to specified classes of people in Fulton County, Georgia ¹¹ from 1950 to 1978. The dates, 1950-1978, were chosen because data were available for this period and also because this time period encompasses a decade before and after the stress period of the 1960's which lends itself to a comparative analysis of the administration of bail, a concern of this study.

This study is based upon several propositions about the administration of bail in Fulton County during the specified time period, all of which suggest that bail is used as a social and political weapon against certain groups of people. The propositions are as follows:

¹¹Fulton County is a county in the state of Georgia divided by the census into ten divisions which are as follows: Alpharetta, Atlanta, Campbellton, College Park, East Point, Fairburn-Union City, Hapeville, Palmetto, Roswell, and Sandy Springs.

- (a) Bail for political activities will tend to be higher than that awarded to defendants without records of political activity.
- (b) The attitudes of those people responsible for the administration of bail will be conditioned by their own values, hence they will feel they are not misusing their judicial discretion, when in fact they are.
- (c) Bail will tend to be higher for Blacks than for whites committing the same offense during the time periods examined.
- (d) Bail for males will tend to be higher than that awarded to females committing the same offense.
- (e) Bail will tend to be higher for poor people than for people with comfortable incomes committing the same offense.
- (f) Bail for Blacks, poor people and males will tend to be higher during periods of high stress against social institutions.

These propositions can be tested by an analysis of primary data principally compiled from the files of the Fulton County Jail and the Fulton County Jail Dockets. Additionally, data were generated from the employment of three major research techniques, interviewing, administering questionnaires, and a survey of the literature.

More specifically, proposition "a" can be tested by reviewing the historical data concerning bail awarded to known political activists (such as Angela Davis, Dr. Martin Luther King, Jr., the Black Panthers and the civil rights demonstrators) and then comparing that amount to bail awarded to people without any known records of political activism. If bail awarded to political activists is greater than that awarded to people without any records of political activism,

then we must conclude that through judicial discretion, bail is used as a tool of social control. However, if bail for political activists is not greater than that of non-political actors suspected of similar crimes then proposition "a" must be rejected.

Approximately two hundred questionnaires were sent to lawyers, bondsmen, and judges in effort to assess their opinions concerning the utility of the present bail system. Surprisingly, one hundred and thirty of the two hundred people that were sent questionnaires responded. The questionnaires were used to determine if the above named people felt that bail was a right for all people, and to find out whether or not they felt that bail is administered without regards to race, income, or political activity. Additionally, the questionnaires sought to determine whether or not the sample population felt that bail is used for other purposes than to assure that a person will appear in court for his or her trial. The questionnaire was structured in such a manner as to amplify respondent's degree of satisfaction with the present system of bail.

During the interviews, open-ended questions were used in order to obtain meaningful responses from those people interviewed. The people interviewed were judges, lawyers and bondsmen, but not necessarily the same as those to which the questionnaire was administered. The sample population was selected from the Fulton County area for both the interviews and questionnaires. For the questionnaire, the

Likert Scale (also called the Summated Scale) was used. Hence the questionnaire was structured so that it provided for the range of responses permitted to any given question to be limited to the research question. In constructing the questionnaire, questions that served as checks on other questions were deliberately asked to assure the consistency of the responses given by individuals filling out the questionnaire.

Proposition "b" can be tested by analyzing the responses to questionnaires and interviews and then comparing them to the data collected concerning the awarding of bail to determine if there exist any visible conflicts. If the respondents indicate that in their use of judicial discretion, they are not biased toward any group when in fact the data show they are, then proposition would hold true. If not, then the proposition will be rejected.

Propositions "c," "d" and "e" can be tested by analyzing the data relating to the amount of bail awarded for specific crimes stratified as to race, sex, age, and occupation of the defendants. This information is available in the Fulton County Jail and the archives of the Atlanta Historical Society.

With the permission of the Chief Jailor of the Fulton County Jail, the files of the Fulton County Jail were surveyed to get an accurate account of bail given to defendants for certain crimes with data stratified as to race, age, sex, and occupation of the defendants. The crimes of concern in

this study are theft by taking, rape, murder, burglary and prostitution. The only cases this research project will canvas will be those of first offenders. The reason for this deliberate limitation is primarily based upon the problems which one encounters if one used "repeaters" because of the other phenomena that would come into the picture by virtue of the defendant being a repeater.

Because of the lack of storage space in the Fulton County Jail, the data concerning the earlier years (1950-1967) of this study is housed in the archives of the Atlanta Historical Society. To extract the desired data for this study from the files of the Fulton County Jail and the Fulton County Jail Dockets, the total population for each examined group is ascertained. After determining the total population, the Random Start Regular Interval method of selecting defendants was used to obtain the appropriate sample population.

The crimes of theft by taking and burglary had the highest committal rates and therefore had the greatest intervals. In the period 1950 to 1960, every eighth Black defendant and every eighth white defendant was selected from the total population to be used in the sample population of those defendants charged with theft by taking and burglary. In the period of 1961 to 1970 and 1971 to 1978 the intervals for the above two crimes increased to twelve to insure sampling the total population of these periods.

In all the other crimes this study surveys, it was determined that intervals of four would cover the total population and thus give an adequate sample population. Therefore every fourth Black defendant and every fourth white defendant were selected for this study. The data collected through this effort were analyzed to determine whether or not bail was higher for certain segments of the population. (The results of this effort can be found in Chapters V through VII).

The information recorded in the Fulton County Jail Docket is similar to the information contained in the files of the Fulton County Jail, except for the exclusion of information concerning the defendant's occupation. Therefore it was necessary to interview employees of the Fulton County Jail to obtain as much information as possible on the occupational backgrounds and patterns of defendants charged with the crimes selected for analysis. The interviews will only be pertinent to the years in which the occupational information was not available (1950-1967).

If after analyzing the appropriate data it is established that bail awarded for Blacks, poor people and males is greater than that awarded to whites, people with comfortable incomes and females committing the same offenses, then we will conclude that the supposedly neutral procedure of administering bail is rendered biased against the above named groups by virtue of judicial discretion conditioned by extralegal factors. If, on the other hand, the bail for

Blacks, poor people and males suspected of crimes are not measurably greater than that for whites, people with comfortable incomes and females suspected of the same crimes, then the respective propositions will have to be rejected.

Proposition "f" can be tested by an analysis of the data in the time period this study encompasses, 1950 to 1978. To aid the research process, the above span of time will be divided into three distinct periods, each covering about ten years. The three periods will be as follows: 1950 to 1960, 1961 to 1970, and 1971 to 1978.

Given the time periods studied and the social and political phenomenon that took place in each period, one can determine if there exist any fluctuation in the amount of bail granted to the groups mentioned in proposition "f."

The decade of the sixties experienced the greatest political and social stress. Hence, if bail for the above named groups was higher during the 1960's vis-a-vis the other periods this study entertains, then this researcher will further conclude that bail is used as a social and political weapon to deter agitation against the status quo. If on the other hand bail is awarded consistently across the board in each time period, then this researcher would conclude that bail is not a political or social weapon and the awarding of bail is nondiscriminatory, at least not apparent in the manner tested for here.

Now that the propositions have been advanced and a methodology for testing those propositions established, a

synopsis of the chapters comprising this project will be given. The introduction, review of the literature and the methodology make up Chapter I. Six chapters follow to empirically analyze the bail system in its functional processes and to gauge the impact of judicial discretion on the administration of bail.

In Chapter II, a historical analysis of the bail system in America will be given. The origin of the present bail system will be discussed and an explanation of the nature, purpose and use of bail will be given. Bail is designed principally to assure that the accused will appear for his day in court. If through judicial discretion, there are other usages of bail, however, they will be brought out in this chapter. Methods of obtaining pretrial release will be surveyed to determine how each method will benefit a certain segment of the population. Included in this chapter will be Supreme Court cases that are pertinent to bail and its administration. This will serve as the legal foundation for an analysis of the operations of the bail system and bondsmen.

Chapter III will assess the characteristics of recipients of bail. Here, a general discussion of bail and judicial discretion, as they relate to the poor, minorities, and Black political activists will be entertained in an effort to measure the difference in bail administration if any exist. Case studies of the effects that the administration of bail and judicial discretion had on the Black Panthers,

Martin Luther King, Jr., Angela Davis, and Hosea Williams will also be presented.

Chapter IV will be an analysis of the results of the questionnaires and interviews administered. The findings here will be juxtaposed to that of the literature in hopes of supplementing material on the subject matter.

Chapter V will be an analysis of data collected from the Fulton County Jail Dockets and the files of the Fulton County Jail. The data are analyzed to determine if judicial discretion in the awarding of bail is evenly and justly administered to all people regardless of age, race, sex or occupation. The period covered is from 1950 to 1978.

Chapter VI determines the relationship of social change and/or disorder to change in the administration of bail, if any changes do in fact exist. Primarily this section will seek to discover if through the use of judicial discretion bail is a tool of social control. In the last part of this chapter, an analysis of the reaction of the bail system to social and political disorder will be discussed.

Chapter VII consists of the conclusion drawn from this research effort. At this junction, my findings will be juxtaposed to the literature in hopes of supplementing this field of study. Also, alternatives to the present bail system in Fulton County, Georgia in particular and the United States in general will be suggested.

CHAPTER II

NATURE AND ORIGIN OF AMERICAN BAIL SYSTEM

The word bail in the legal sense relates to determining the legal status of someone charged with a crime pending his trial. An ever prominent question in the legal profession is: what is the purpose of bail? Most people are led to believe that bail is used to assure that persons accused of a crime will show up for trial if he is not placed in pretrial detention.

In Ex Parte Milburn, The Supreme Court, in 1935, held that:

A recognizance of bail, in the criminal case is taken to secure that due attendances of the party accused, to answer the indictment, and to submit to a trial, and the judgment of the court thereof. It is not held for the satisfaction for the offense....but as a means of compelling the party to submit to trial and punishment which the law ordains for his offense.¹

Bail has also been defined as a means of acquiring the release of a person from legal custody by guaranteeing that he shall appear at the time and place designated and submit himself to the jurisdiction and judgment of the courts.²

¹Ex Parte Milburn, 34 U. S. 704 (1935).

²Black's Law Dictionary, (St. Paul Minnesota: West Publishing Company, 1951), 4th ed., p. 177.

Thus, bail is defined, but where did the concept originate?

It can be argued that bail has been in existence for quite sometime although it may not have always existed in its present form. Bail originated in medieval England³ and has its roots in early English law. In the 16th and 17th century, justice was administered by traveling judges who visited a city or circuit during a certain period of the year. If a person accused of committing a crime was caught, he remained in jail until the traveling judge came into the city to conduct trials. The need to establish alternative methods of administering justice arose because of the condition of the jails and the lengthy delay between arrest and trial as a result of the traveling judges. Bail was supposed to be the answer.

At first, sheriffs exercised their discretion to release a person on his own promise to appear for trial or on the promise of a third party that the defendant would appear for trial.⁴ The King, however, had the final say in all cases as to whether or not a person could secure pretrial release by obtaining bail.

English pretrial release statutes stipulated eligibility criteria for bail. Persons committing the crime of murder could not be released on bail unless they got a special pardon

³Report to the National Conference on Bail and Criminal Justice, "Bail in the United States," May 1964, p. 1.

⁴Ibid.

from the King.⁵ If a sheriff let the prisoner out on bail when in fact that prisoner was not eligible for bail, the sheriff would lose his job even though he obtained collateral from the accused.⁶

In the even of the defendant escaping while he was out on the promise of a third party surety, the third party was required to surrender himself.⁷ A defendant who escaped was subjected to harsh punishment if he was caught and therefore there were very few bail jumpers in medieval England.

The development of bail in the United States was similar in many respects to that of medieval England but was also in many aspects different. The United States Constitution does not specifically state that people should have a right to obtain bail. In fact, the only section of the United States Constitution concerning the subject of bail is the Eighth Amendment which states:

Excessive bail shall not be required nor excessive fines imposed nor cruel and unusual punishment inflicted.⁸

One must keep in mind that the first ten amendments of the United States Constitution, the Bill of Rights, were

⁵ John Reeves, History of English Law, (New York: Augustus M. Kelley Publishers, 1969) Vol. II, p. 13.

⁶ Ibid., pp. 132-133.

⁷ Report to the National Conference on Bail and Criminal Justice, p. 1.

⁸ Leroy Haymen, The United States Constitution, (New York: Scholastic Book Service, 1966), p. 173.

written into law after the original writing of the Constitution. Therefore it should be noted that the original document did not concern itself with the matter of bail at all.

However, before the ratification of the Bill of Rights, the United States Congress in the Judiciary Act of 1789 provided that:

....upon all arrests in criminal cases, bail shall be admitted, except where punishment is death in which case it shall not be admitted but by a Supreme or Circuit Court, or by a Justice of the Supreme Court, or a Judge of a district court, who shall exercise their discretion therein, regarding the nature, and circumstances of the offense, and of the evidence and usage of law...⁹

One can clearly see the similarities of English bail and some aspects of Aspects of American bail. Whereas the King had the power to give bail in capital cases in the medieval bail system, Justices of the Supreme Court have the power along with the President in the American bail system.

One can imagine the problems in early American frontier days if an individual tried his luck at jumping bail. It would be an extended period of time, at best, before the bailee returned to the custody of the legal authorities. There were many unexplored territories on the frontier in which one who had jumped bail could seek refuge. In many cases, men called bounty hunters were either employed by

⁹"Judiciary Act of 1789 - Section 33," United States Statutes at Large, VI, p. 91.

the sheriff or by sureties to track down bail jumpers and return them into the custody of the appropriate legal jurisdiction.

Because of the risk involved, many people became reluctant to sign as third party surety. This called for the development of new techniques to supplement the private surety responsible for seeing that the bailee appeared for trial and legal proceedings. As a result, the bonding institution arose and assumed the function of posting bail. The bondsman put up money on behalf of the defendant to guarantee his appearance in court thereby setting the stage for pretrial release of the defendant.

If the defendant did not appear for court proceedings, the bondsman stood to lose the money he put up for the bond. Therefore, bondsmen had to develop means to protect themselves from absorbing the financial loss. For this reason, bondsmen in many jurisdictions required indemnification contracts or collateral from the defendants or his relatives to protect themselves from forfeiture losses.¹⁰ The selling of bailbonds soon became a standard feature in the criminal justice system procedures.

As with many other social or political questions, bail found its way into the halls of the highest court in the United States, the Supreme Court. The debates centered

¹⁰"Bail: An Ancient Practice Re-examined," 70 Yale Law Journal, 966, 967-8.

principally around how bail should be administered and what type of defendants should have access to bail. One such case of historical significance to reach the Supreme Court was Stack v. Boyle.¹¹ In this particular case, the high court made clear several points that underlie the theory of bail as we know it today. First of all, the main concern is to ensure the bailee's appearance in court. Secondly, there will be some people more apt to jump bail, but these people should not be denied bail. Thirdly, in accordance with the Eighth Amendment of the United States Constitution, bail should not be excessively high.

Purpose and Use of Bail

Thus far, this research effort has presented only the statutory purposes of bail but there also exists arguments suggesting that bail is used to accomplish a variety of other ends, some of which do not coincide with the statutory outlines but go instead beyond these provisions. These other ends for which bail is used are discussed below, however, the statutory purpose is reviewed before that discussion takes place.

Using bail as a guarantee that the defendant will show up for trial is the most often articulated concern of the bail system. The principle behind this objective is that the defendant will appear in court in order not to lose

¹¹Stack v. Boyle 342 U. S. 1, 4. (1951).

the money which has been posted for his pretrial release, thus reducing the incentive to leave town before his scheduled trial. The validity of this theory has often been challenged on several grounds. One of the principle arguments advanced is that the defendant who can afford bail can, in most cases, afford to buy transportation or connections to get out of town. On the other hand, the poor man who can hardly make ends meet and cannot afford to secure a bailbond, in most cases, will not have enough money to secure means to get out of town and therefore is detained while awaiting trial.¹²

Another purpose of bail is the protective objective. The central theme of this objective is to protect society from defendants who are likely to commit additional crimes or are a threat to the jurors and/or witnesses. The judge has the power to decide if the accused is a threat to the community or will commit another crime. Therefore, the judge will either set bail so high that the defendant cannot post bond or will simply refuse to permit bond.

A less frequently used objective of very high bail is for rehabilitation. This objective is primarily reserved for juveniles and sometimes first offenders and assumes that if legal authorities give the youth the first offenders a taste of the cruel prison life, it might serve as a lesson

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This position is advanced by Paul Wice in his book, Freedom for Sale, (Heath and Company Publishers, 1974).

to them in the future. This taste of prison life is provided by purposely setting bail at a level beyond the reach of the defendants.

Still another use of high bail is as a punitive measure to detain defendants whom police strongly suspect have committed a criminal act, but lack concrete evidence of such crimes that would be permissible in court.

This usage of bail allows innocent people to be victimized and therefore subjected to the harsh conditions of pretrial detention. The only thing a defendant in such circumstance has in his favor is the fact that the Constitution of the United States guarantees that the authorities can only detain or interrogate a defendant for a certain period of time without formally charging him. If the authorities cannot make the original case stick, they may sometime charge the defendant with another crime and place excessive amount of bail on the offense just to detain the individual.

The four above mentioned objectives are used in felonies and more serious misdemeanors. However, the bail system has also been used as a pressuring device, more so in misdemeanors than felonies. This process begins with the initial appearance of a defendant before a judge or magistrate. The defendant is made aware by the judge that he does not have a lawyer (which is the case of many defendants), he will be granted a certain amount of time to secure one. Once an

attorney is obtained, the defendant is made aware that he may waive his rights to the attorney who can take care of his initial appearance and/or terminate the entire matter.¹³ The defendant, in order to avoid the prolonged activities of the criminal justice procedures, may accept this offer whether he is guilty or innocent. He may get a lesser charge and it is indeed less expense to the court. The essence of this device, then, is the forcing of defendants into waiving their rights to an attorney and thereby clearing the overcrowded and heavily backlogged calendar.

Now that the objectives of bail have been advanced the methods of obtaining pretrial release will be discussed.

Methods of Obtaining Pretrial Release

Several methods of obtaining pretrial release exist and the first to be discussed is the personal bond. The personal bond is a method of pretrial release in which the defendant is released by the judge on the defendant's signature without an outlay of financial capital. Release by this method occurs when the judge is convinced that the accused individual has sufficient family ties, community ties or a reliable character which will assure that the person will neither leave town nor fail to show up for the

¹³Paul Wice, Freedom for Sale, (Lexington, Mass: Heath and Company Publishers, 1974), p. 7.

trial in order to avoid prosecution.¹⁴ Another type of personal bond is third party custody. Third party custody operates similarly to the above, the difference being that the defendant is placed in the custody of persons who agree to be responsible for him and becomes his personal surety. This too is left to the discretion of the judge. There have been various names offered for personal bonds. Some of them are: (1) personal sureties; (2) nominal bonds; and (3) personal recognizance release. (These methods of pretrial release are used in less serious crimes.).

Another method of pretrial release is the use of a property bond in which the defendant, his family or friends put up property as bail in lieu of monetary settlement. According to Paul Wice, author of Freedom for Sale, Atlanta, Georgia and St. Louis, Missouri most often use this method of pretrial release. The greatest problem with this method is the loss and pain inflicted on families and friends who put their property as bail and the defendant does not appear for the court.

Cash bail is a method of pretrial release in which the defendant raises the full amount of bond required either through direct payment to the court or through the aid of a bondsman. The amount of money required is supposed to

¹⁴ American Bar Association Projects on Standards for Criminal Justice, "Pretrial Release," (New York: American Bar Association, 1968), p. 54.

be determined according to the crime committed. Sometimes it is left up to the judge who may or may not use a bail scale.¹⁵ Once the defendant finds out the amount of his bail, if he delivers the money to the court he will get back the entire amount upon his appearance in court. However, if he uses a bondsman, a fee is usually charged and the defendant will not get this money back.

The ten percent bail deposit is a method of pretrial release in which the defendant is required to put up ten per cent of the total face value of the bond in order to be released.¹⁶ If the bond is \$2,000.00, for example, the defendant will only have to put up \$200.00. However, if the defendant fails to appear in court at the designated time, he owes the court the entire face value of the bond (in the example the amount would be \$2,000.00).

Another provision of this method of pretrial release states that if the defendant appears in court at the appointed and designated time, 90% of \$200.00 or \$180.00 will be refunded to the defendant and 10% (in the example, it would be 10% of \$200.00 or \$20.00) would be used to cover court cost. The defendant only loses 1% of the original bond if he appears in court and that 1% will cover his court

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A bail scale is a listing of crimes and the amount of money charged for bail according to the offense committed.

¹⁶ Illinois, Code of Criminal Procedure, 110-7.

cost. This is an attempt to improve the defendant's chances of pretrial release which also in effect diminishes the necessity of the bondsman with this method of pretrial release, however, if the bondsman finances the bond, the defendant does not get any of the money back.

The citation bond is seldom used as a method of pre-trial release, yet it is worth mentioning.¹⁷ In less serious crimes the investigating officer will simply issue a citation to the defendants indicating when they are to appear for trial. Therefore, there is no cash transfer unless the defendant fails to appear for his court date.

Procedures of Bail

After a person is arrested and taken into custody, he should be able to obtain pretrial release by posting bond. It may seem to be a simple procedure but it is not. Since many arrests by the police are without a warrant because the arresting officer believes that there is probable cause to suspect the defendant of violating the law, the defendant usually has to wait until he is able to appear before a judge or magistrate where his bond will be determined. Then there is a question of how long must a person wait before he can see the proper authorities to be notified as to the amount of his bail. Most states construe the answer to

¹⁷"Analysis of the Citation System in Evanston, Illinois--Value, Constitutionality, and Viability," Journal of Criminal Law and Criminology, Vol. 65, No. 1, March 1974, pp. 75-86.

this question to be "without unnecessary delay."¹⁸ This is very vague because of the clause "unnecessary delay" which is subject to discretionary interpretation.

Bail cannot be determined until the person is charged with a specific crime and this gives the police a chance to question the defendant many hours before he can obtain pre-trial release. The only defense a person has over this type of action is to secure a writ of habeas corpus (forbidding unlawful detention).

"Fixed Bail" schedules allows police and other non-judicial officers to set bail. This would require glancing over a chart with crimes and rate of bail for each crime which helps the defendant secure a speedy pretrial release. Of course, the seriousness of the crime determines how quickly pretrial release can be obtained. Bail is also determined by the nature of the crime, whether or not this is the first or second offense and whether or not the person lived in the place the crime was committed.

Supreme Court Cases Relevant to Bail

Because of a significant number of problems related to persons not honoring their commitment to appear in court as per the bail agreement the court was forced to resolve bail related dilemmas on matters such as forfeitures,

¹⁸Wice, Freedom for Sale, p. 21.

remissions, and indeminators. An analysis of some of those cases are presented below.

As was previously noted in Stack v Boyle, the main purpose of bail is to ensure the appearance of the bailee in court and that in accordance with the Eighth Amendment of the United States Constitution bail should not be excessively high.

An 1873 case, Taylor v Taintor¹⁹ stated that sureties may personally, or through an agent, arrest the offender to surrender him to authorities. They may pursue him into another state and arrest him at anytime.

Expanding the boundaries of surrender and arrest of bailees was a case in 1923, Ex Parte Salinger.²⁰ The ruling in this case was such that though one receiving bail remains, in a sense, in custody of the law, he is more particularly in the immediate custody of his sureties. Forefeiture of the bond authorizes them to arrest him, if necessary by breaking and entering anywhere in the United States.

Questions concerning the inability of defendants to appear in courts at the designated time because of illness came before the court also. In People v. Calvert,²¹ the

¹⁹Taylor v Taintor 83 U. S. 366, Connecticut (1873).

²⁰Ex Parte Salinger 288 F 752, New York (1923).

²¹Peoples v Calvert 227 P (2nd) 834, California.

court ruled that should a defendant miss his appearance in court because of illness that forfeiture will be left up to the discretion of the judge. However, the issue went a step further and stated that justice does not require forfeiture in such cases and trial courts should never abuse its discretionary powers. In essence, this ruling meant that a judge had the power to determine whether or not a defendant could use illness as an excuse for not appearing in court. If the judge decided that the illness was serious enough, he could elect not to forfeit the bond and could grant another trial date depending upon when the defendant was well enough to appear in court. Another case that reinforced this notion is United States v Smaldone.²²

Defendants obtaining pretrial release through a bonding agency may choose to leave town in order to avoid prosecution. Of course, the bonding company loses money if this occurs. Therefore, bondsmen carried the matter before the court to acquire legal authority to return bail jumpers. This was accomplished in 1931, in Fitzpatrick v Williams,²³ a Louisiana case. The court ruled that agents could arrest defendants in another state and return them to the state in which the bond requires their presence. This could be done without resorting to extradition to the ruling of the court.

²²United States v Smaldone 211 F 161, Colorado (1954).

²³Fitzpatrick v Williams 46 F 40, Louisiana (1931).

These are a few very important cases concerning bail-bonding and they set the boundaries within which any bonding agent and the bail system may operate. As always, questions of vital importance come before the court in order that the court can render final judgment, and so it was with the matter of bail and bailbonding.

In conclusion, it should be remembered that while the origin of bail in America stems from old English law, it was found that bail in this country is also used for purposes other than merely to assure appearance. Among them are the protective measures, punitive measures and for the rehabilitation of young and/or first offenders.

Even though the right to have bail is not specifically stated in the United States Constitution, it is implied in the Eighth Amendment. However Section 33 of the Judiciary Act of 1789 expressly grant the right to bail in non-capital cases. There are several methods of obtaining pretrial release some of which are as follows: (a) personal bond, (b) cash bond, (c) property bond, (d) ten per cent deposit provision and (e) the citation bond.

Also concerning bail, the courts have decided that sureties may arrest forfeiturers even if that person flees to another state. This was established because even though the person receiving bail is still in the custody of the law, he is more specifically in the custody of his surety. The courts also decided that the judge has the final say so as to if a defendant may forfeit a bond because of illness.

CHAPTER III

GENERAL ANALYSIS OF THE BAIL SYSTEM AS IT RELATES TO SELECTIVE GROUPS

Arthur Beeley, in commenting on the Chicago bail system, made a statement that describes bail systems throughout the United States. He asserted that:

The present system of bail, in too many instances neither guarantees security to society nor safeguards the rights of the accused. The system is lax with those with whom it should be stringent and stringent with those it could safely be less severe...¹

Although many men and women who administer bail in the United States may not agree with Beeley, through the use of judicial discretion they determine who is or who is not awarded bail and the amount. Even though the bailbonding process purports to be fair and just, it can be rendered biased because of the impact of economic, cultural, political, and social factors upon judicial discretion. Therefore it follows that there will be some individuals who are victimized and others who will benefit from the administration of bail.

¹Arthur Beeley, The Bail System in Chicago, (Chicago: The University of Chicago Press, 1966), p. 160.

The Poor and Minorities

Throughout the criminal justice system, unchecked discretion works to the detriment of the poor and non-white (often they are the same but this is not always the case) because this unchecked discretion often represents a confluence of caste and class bias.² Systems which place or keep poor and non-white in their position of inferiority or disadvantaged, using not race itself as the subordinating mechanism, but instead other mechanisms indirectly related to race, are properly designated "institutional racism" and are manifested in the laws.³

The bail system as we know it today seems to discriminate against the poor and non-whites. Bail may range from \$10.00 to an enormous amount, but if one does not have access to the money needed, he cannot post bond. The rich can afford to post their bond and the poor cannot afford the premium for bail bond and as a result, the poor go to jail while the rich go home to await trial. The poor man has to go to jail and at this point is not convicted of any crime. However, he is detained, often in conditions that are worse than those afforded to convicted criminals.⁴ The defendant is also

²Robert Lefcourt, Law Against the People, (New York: Random House Press, 1971), p. 50.

³Ibid., p. 51.

⁴Johnathan Casper, American Criminal Justice: The Defendant's Perspective, (New Jersey: Prentice Hall, Inc., 1972), p. 66.

isolated from his family, friends, his attorney and often has to appear for numerous court hearings and then returned to jail.⁵

The economic disadvantages for the poor derived from the bail system do not stop at this point. If an individual is locked in a jail because he cannot afford to post bond, his capacity for earning money is completely terminated. His job is sometimes terminated and then not only does he suffer but so does his family and loved ones. People in the community have a tendency to look upon pretrial detention with a narrow minded view. Friends and neighbors often have fixed judgments that the person being detained is guilty based upon the pretrial detention of the defendant. All this judgment is passed before the defendant is actually brought to trial.

A study by Ronald Goldfarb showed that grant juries have dismissed charges against defendants out on bail more often than they have charges against defendants held in jail.⁶ Another interesting note derived from this study was the fact that more jailed defendants were convicted at their trial as compared to those out on bail and those out on bail and those out on bail received more suspended sentences. Goldfarb noted in this study that fifty-five

⁵Ibid.

⁶Ronald Goldfarb, Ransom, (New York: Harper and Row Publishers, 1965), p. 33.

percent of those jailed were acquitted and therefore were detained for no other reason than being poor. It is likely that defendants brought into a courtroom from the jail cells after spending a period of time there and escorted in and out of the courtroom by marshalls bear a stigma before the court and jury which is not shared by the defendant who comes into the courtroom well groomed and accompanied by his attorney.⁷

The criminal justice system is clearly discriminating by promoting this type of injustice and also loses money as a result of the administration of bail. The bail system is self-defeating economically speaking. The cost to the taxpayers for the maintenance of jails and other pretrial detention centers is enormous and a waste of millions of dollars each year.⁸

Gertrude Samuels in the New York Times Magazine asked:

How can it be that members of Brooklyn's notorious Gallo gang, who were charged with murdering a policeman in the course of a gang war, were released on bail, while at the same time in that same city seventeen and eighteen year old defendants were kept in jail over a year because they could not afford bail?⁹

The two teenagers were acquitted but only after spending a great deal of time in jail awaiting trial.¹⁰ This sort of

⁷Ronald Goldfarb, "The Great Bail Scandal," The New Republic, 6 June 1964, p. 15.

⁸Ronald Goldfarb, Ransom, p. 33.

⁹Ibid.

¹⁰Ibid.

thing happens quite frequently in the United States. The teenagers described above, along with many other innocent people, were subjected to the conditions of incarceration for pretrial detention. They are often placed in the same cell as hard core criminals and are therefore exposed to mental and physical harm.

Black Political Activists

So-called subversive and disloyal citizens seem to be punished through the use of bailbonding practices. Even though a person is legally innocent until proven guilty, if he is faced with a subversive charge he often gets the book thrown at him.¹¹ The Civil Rights demonstrators to a certain degree were considered within this classification as were the Black Panthers, Angela Davis, Martin Luther King, Jr., and Hosea Williams.

The established order of the South, including judges, police, lawyers, and bondsmen were unwilling to countenance Civil Rights demonstrations and were dead set upon maintaining the white supremacy system. Consequently, they often combined to fight the freedom movement and used bail as one powerful weapon with which to prosecute that fight.¹² Many people who demonstrated for their legal and civil rights

¹¹Ronald Goldfarb, "The Great Bail Scandal," The Republic, 6 June 1965, pp. 15-16.

¹²Goldfarb, Ransom, p. 60.

were thrown into jail and given high bail. Most of them were Black and poor and a vast majority of them were students,¹³ therefore; they were not able to post even the smallest amount of bail. Many of the defendants had bail set at \$2,500, others at \$50,000 and still others up to \$200,000 for different offenses tht occurred during riots and demonstrations.¹⁴ The majority of those charged with offenses could not post bond and therefore were detained before their trial for long periods of time.

The National Association for the Advancement of Colored People posted bail for demonstrators at one time but soon realized that this limited the funds available for the defense of the accused. Thus the defendants turned to other methods to secure bail money or simply stayed in jail. Businessmen, civic leaders and churches posted bail in some cases but soon found that their money was tied up for long periods of time due to substantial delays in the trials. This practice systematically eliminated this outside help. In some cases, however, defendants were able to post bond but additional charges were brought up and bail was set on each one. This, in actuality, made pretrial release an unattainable goal.

¹³Report of the National Advisory Commission on Civil Disorders, Otto Kerner, Chairman (New York: Bantam Books, Inc., 1968), pp. 340-341.

¹⁴Ibid.

The Eighth Amendment of the United States Constitution provides guarantees against excessive bail and the Supreme Court has ruled that the only function of bail is to help guarantee the appearance of the defendant in court.¹⁵ But the denial of bail is more often used against the defendant to "teach him a lesson" and to "protect the community."¹⁶ This fact has been most spectacularly revealed in the exorbitant ransoms courts have required for pretrial release of black political prisoners.¹⁷

One organization that fell prey to manipulation of the bail system was the Black Panther Party. This organization was founded in 1966, in Oakland, California by Huey Newton and Bobby Seale.¹⁸ At the outset, the Black Panthers adhered to the revolutionary nationalistic program which predicated the advancement of black Americans on their ability to create autonomous black communities in the United States. The basic beliefs and desires of the Black Panther Party were clearly expressed in their literature and speeches.

¹⁵See 1835 Supreme Court Case Ex Parte Milburn.

¹⁶Caleb Foote, "A Study of Administration of Bail in New York," University of Pennsylvania Law Review, Volume 106 (1958), p. 633.

¹⁷Lefcourt, Law Against the People, p. 51.

¹⁸Gene Marine, The Black Panthers, (Chicago: Rampart Press, 1969), pp. 32-34.

However, the essence of their desires could be found in their "Ten Point Platform" and from the party's inception, they stressed "point seven" of their ten point platform which proclaimed"

We want an immediate end to police brutality and murder of black people.¹⁹

Black communities in Oakland, California had voiced disapproval of police brutality and felt that the Black residents were being treated unjustly verbally, physically, and mentally. Harassment by police included stop and frisk, unlawful searches, and simple discourtesy. The Panthers sought to rid the community of such overt acts against Black people by forming a Panther patrol.²⁰ The Panther patrol had a terrifying effect upon the Oakland community, primarily because the white establishment apparently found something particularly frightening about black men with guns. The unspoken logic and understanding is that a black man armed is angry and he is most likely motivated by rage that will very likely render him insane and thus more likely to shoot in blind hostility.²¹

¹⁹Huey Newton, To Die for the People, (New York, Random House Press, 1972), p. 4.

²⁰United States Congress, House Committee of Internal Security: Gun Barrel Politics: The Black Panther Party, 1966-1971, Hearings Before a Subcommittee and Internal Security, 92 Congress, 1st Session, 1971, Washington: Government Printing Office.

²¹Gilbert Moore, A Special Rage, (New York: Harper and Row, 1971), pp. 54 and 55.

As a result of the Panthers' actions, they were arrested and had to come face to face with the bail system. Many of the key members of the Black Panther Party were given high bail after being arrested and sometimes their only crime was that of being a "Panther."²² In December, 1969, a great number of Panthers were arrested at one time and charged exorbitant bail. Ninety percent of the charges on those arrested were dropped, but the exorbitant bail charged successfully tied up the funds of the Black Panthers thereby preventing financing new programs or maintaining existing ones.²³

Still another incident in which the Panthers were victimized by the bail system was the New York Panther 21 Conspiracy case. In this case, members of the Panther organization were charged with conspiring to bomb police stations, department stores, railroads, the Bronx Botanical Gardens and attempting to murder policemen.²⁴ Bail for each Panther arrested in this particular case was set at \$100,000.²⁵ The judge denied almost every defense notion

²²For a detailed discussion on this matter see Gilbert Moore's book cited in the above footnote.

²³Bobby Seale, Seize the Time, (New York: Random House Press, 1970), p. 370.

²⁴Robert Lefcourt, Law Against the People, p. 185.

²⁵Ibid., p. 186.

before and during the trial to lower the prohibitively high \$100,000 bail set for the defendants.²⁶ The defendants were detained in prison for over a year only to be found innocent of any wrong doings by a jury consisting of five Blacks, one Puerto Rican, and six whites on May 13, 1971.²⁷

The Panthers had another financial set back as a result of the administration of bail. The background information for this event centers around the Panther's march on the California State Capitol in protest of the proposed gun legislation aimed at prohibiting them from carrying firearms. The Panthers were armed and therefore arrested when they went to Sacramento to voice their objections and bail was set at \$2,200.00 for each of the twenty-four panthers arrested.²⁸ A bail trial was held in an effort to lower the previously set bail but the judge ruled that the bail would not be lowered because of their previous records.²⁹

The leaders of the Panthers were arrested on any charge possible with the hope that this action would disrupt the organization. Huey P. Newton, minister of defense, was

²⁶Lefcourt, Law Against the People, p. 186.

²⁷Ibid.

²⁸Bobby Seale, Seize the Time, p. 177.

²⁹Ibid., p. 173.

arrested and jailed for the fatal shooting of John Frey, an Oakland police officer. Reports showed that Newton was acting in self-defense but authorities disregarded these reports.³⁰ Huey who was held without privilege of bond because he was charged with first degree murder was found guilty of third degree murder (voluntary manslaughter).³¹ Newton was not given privilege of bond by Judge Friedman even though people charged with third degree murder are normally able to obtain bail.³² Therefore Newton had to stay in San Luis Obispo Prison until his case went to a higher court.

In another effort to use the bail system to systematically eliminate the Panthers' key leadership, Elridge Cleaver was also victimized. Cleaver was arrested but not formally charged with any crime and bail was set at \$50,000.³³ Judge Raymond Sherwin of Salano County released Elridge Cleaver on the grounds that he was being held solely for political reasons, that he was, in fact, a political

³⁰Reginal Major, A Panther Is A Black Cat, (New York: William Morrow and Company, 1971), pp. 179-180.

³¹Seale, Seize the Time, p. 243.

³²Ibid.

³³Don Schanche, "Panthers Against the Wall," The Atlantic: Volume 225, 16 May 1969, pp. 58-59.

prisoner.³⁴ It was not long before a higher court overturned Judge Sherwin's decision to release Elridge from the Vacaville State Prison Facility and Cleaver was informed that he had to return to prison.³⁵ Rather than return to prison Cleaver fled the country.

The Chairman of the Black Panther Party, Bobby Seale, also had dealings with the bail system. Seale was arrested and charged with conspiracy to kidnap and murder in regards to a Connecticut incident. Bail was set at \$25,000 and Seale and his lawyers argued that this was too high.³⁶ They felt that since Seale had never before fled to avoid prosecution and because he was constantly in the public's eye making speeches and holding press conferences, bail should be lowered. This motion was denied.

Excessively high bail was used to tie up the Panthers' money and deplete their funds. This can be clearly seen in the above cases but another example can be cited to further substantiate this point. After the Panthers had successfully raised \$10,000 in a "Free Huey" rally for Newton's defense, members of the party were arrested on charges that were later dropped by Judge Lionel Wilson because the arresting officer

³⁴Seale, Seize the Time, p. 256.

³⁵Ibid., p. 257.

³⁶Ibid, p. 294.

did not report the facts.³⁷ These arrests were no doubt an attempt to deplete the previously raised \$10,000.³⁸ With a careful view, one can clearly see how "white justices" systematically used arrest tactics to deplete the funds of the Black Panther Party. Many students of the era suggest that these abuses of judicial power were a planned conspiracy to disband the Black Panther Party.

Peace bonds were used against political activists also. This technique was used against Hosea Williams of the Southern Christian Leadership Conference (SCLC) when he went to Savannah, Georgia to lead a demonstration.³⁹ A local white woman swore out a warrant against Williams asking the court to issue it on the grounds that Williams' conduct presented a future threat to her person, property, and security. Hosea was required to post bail to assure his good behavior. He posted the required bailbond of \$2,500, but the situation did not stop here because more people in the community swore out complaints and consequently Williams had to post bail for each complaint, \$2,500 a complaint. Needless to say, Hosea ran out of money and ended up in jail.

³⁷ Seale, Seize the Time, p. 225.

³⁸ Ibid., pp. 224-225.

³⁹ Goldfarb, Ranson, p. 79.

Also, in 1974, Williams was arrested in Fulton County, Georgia, and charged with inciting a riot and criminal damage to government property for which bail was set at \$1,100 and \$1,500 respectively.⁴⁰ Williams was subjected to arrest at the hands of law enforcement officers across the South and bail was set very high in order to detain him for a long period of time. Williams was aware of the technique being used against him and there was nothing he could do.

Angela Davis became a public figure because of her political views. She announced that her political preference was Communism and as a result the Board of Regents tried to fire her from her professorship at U. C. L. A.⁴¹ Angela became interested in the plight of political prisoners (examples, Seale, Newton, and the Soledad Brothers) and voiced her dislike for the penal institutions across the United States. She became closely associated with Jonathan and George Jackson⁴² and concerned with their defense.

At a trial in Marion County in 1970, guns were smuggled into the courtroom and as a result Judge Harold Haley and three other people were fatally wounded. Angela Davis was said to have allegedly played a part in smuggling the guns

⁴⁰Information gathered from the files of the Fulton County Jail.

⁴¹Reginald Major, Justice in the Round, (New York: Okpaka Publishing Company, 1973), pp. 34-45.

⁴²Ibid., p. 47.

to the scene of the incident. Consequently, she was charged with conspiracy to comit murder, aiding and abetting rescue and escape and was to be held without bail.⁴³ Angela fled to another city because of her "fear of the authorities" and additionally, she was charged with flight to avoid pro-sececution and placed on the "Ten Most Wanted List" of the FBI. Bail for this offense was set at \$250,000.⁴⁴

Miss Davis was put in a cell with no sunlight to further humiliate her. After a series of long and furious court proceedings which stirred up the emotions of poople across the nation, and after a "Free Angela" campaign, she was acquitted on all account on June 4, 1972.⁴⁵ The high bail was set in hopes that Miss Davis would not be able to raise it and thus remain detained.

Still another individual whose fate led him to face the bail system because of his political philosophy and activism for civil rights was Dr. Martin Luther King, Jr. From the moment he stepped forward to lead the Montgomery Bus Boycott until his death in Memphis, King was repeatedly jailed and bail was set punishingly high. Dr. King was sentenced many times for misdemeanors such as parading without a permit, illegal assembly, and disturbing the

⁴³Ibid., p. 50.

⁴⁴Ibid., p. 110.

⁴⁵Major, Justice in the Round, p. 314.

peace.⁴⁶ Often King was put in jail with vagrants, drunks, serious law breakers.⁴⁷

On January 26, 1956, in Montgomery, Alabama, King was leaving a meeting with some of his associates and noticed that three police officers were following them. He made every effort to obey all traffic laws because he felt they were waiting for an opportunity to harass him. After he let his passengers out, he was soon stopped by the police officers and falsely charged with speeding thirty miles an hour in a twenty miles zone.⁴⁸ As soon as Reverend Abernathy found out that Dr. King had been detained, he tried unsuccessfully to seek his release.⁴⁹

On February 17, 1960, Dr. King was arrested in Atlanta on an Alabama warrant following the indictment by Montgomery County Grand Jury. He was charged with two counts of perjury in connection with the filing of 1956 and 1958 state income tax returns and bond was set at \$2,000.⁵⁰ In connection with a "sit in" in Atlanta, King was charged with violating

⁴⁶Major, Justice in the Round, p. 2

⁴⁷Martin Luther King, Jr., Stride Toward Freedom, (New York: Harper and Row Publishers, 1964), p. 109.

⁴⁸Ibid., p. 108.

⁴⁹Ibid., p. 110.

⁵⁰Lerone Bennett, Jr., What Manner of Man, Chicago: Johnson Publishing Company, 1968), p. 244.

the state's anti-trespass law and no bond was set.⁵¹ He was transferred from Fulton County Jail to DeKalb County Jail and given four months in jail by a DeKalb County Judge. The judge ruled that Dr. King's participation in the "sit in" violated terms of his probated traffic sentence.⁵² He was then transferred to Reidsville State Prison and appeal bond was set at \$2,000.⁵³

The only reason for King repeatedly being arrested and given high bailbonds was simply because of his civil and political activity, as was the case of Davis, Newton, and Seale. The white power structure has used arrest and bail to try to wipe out those participants in the civil rights movement. This should not take place in a nation that claims to be a democracy, however; one cannot deny the fact that this does take place in America. Bail in many instances has not been used to assure the appearance of the defendants, instead it has been used to oppress the poor and suppress the activities of political activists.

Bondsmen

Thus far, instances have been cited in which the bail system has been used to victimize certain segments of the

⁵¹Ibid.

⁵²Ibid.

⁵³Lerone Bennett, Jr., What Manner of Man, p. 244.

American population. At this juncture, attention will now be focused upon the beneficiaries of the present administration of bail. In the case of the bail system, it is clear that bondsmen reap benefits. They charge rather high rates for their services, but price is the last thing on one's mind when one has a choice between freedom and imprisonment.

Judge J. Wright of the United States Court of Appeals has stated, "Bondsmen held the key to the jail in their pockets."⁵⁴ The rationale of his statement was that if a bondsman chooses not to post bail for a "bad risk" or for people who cannot afford bail, they ultimately end up in jail. The law requires the judge to set bail where appropriate but it does not however, require the bondsmen to put up bail.⁵⁵ Even if the defendant is so-called "good risk," the bondsman may refuse to post bond for any reason he so desires.

In many of the civil rights cases, some bondsmen would have provided bail, (their economic interest being stronger than their social ideals) but did not because of conflicting business pressures.⁵⁶ The bondsman reserves the right to either grant or deny his services to the defendant.

⁵⁴Murray Bloom, "Must It Be Bail or Jail," Reader's Digest, May 1964, p. 189.

⁵⁵Ronald Goldfarb, "The Great Bail Scandal," The New Republic, 6 June 1964, p. 16

⁵⁶Ibid.

Even though the government regulates the rates bonding agencies can charge, they get around this with a few tricks of the trade such as charging a minimum fee no matter what the amount of bail may be. Also, they may charge extra for night duty, charge service fees and even sell bonds on credit with high interest rates attached. The bondsman may not have any personal contact with the defendant before trial. In most cases, they only send a message reminding the individual to show up for trial and follow it up with a telephone call.

The bonding institution is infiltrated by crime. This is to say policemen and judges often recommend a certain bondsman to a defendant and in return they get a certain percentage of the bondsmen's profit. In 1961, a Jack County Missouri grand jury found that most bondsmen paid police 20% of their fees for referring defendants to them.⁵⁷ In Cincinnati, Ohio, municipal court clerks were accused of receiving 30% of the bondsmen's profit.⁵⁸ The clerk, not only called their favorite bondsmen, but saw to it that the bondsmen were not required to pay full amounts of forfeited bonds. The "underworld" has a great deal of interest in bailbonding and attempted to take over.⁵⁹ If justice is to

⁵⁷Murray Bloom, "Must It Be Bail or Jail," Congressional Records, May 14, 1964, 10515-16.

⁵⁸Ibid.

⁵⁹Ronald Godlfarb, Ransom, p. 104.

be distributed equally, there must be another method of administering this justice especially when the literature indicates that the bondsmen do not have the best interest of the defendant at heart.

A sizable portion of the literature available describes the bondsmen in physical and emotional terms. The data described the bondsman as inhumane and not well educated. Partly, in order to check the accuracy of this portrait, interviews were conducted with bondsmen of various bonding companies in Fulton County.⁶⁰

The first company visited was the Atlantic Bonding Company. The office was dull and dreary and the furnishing consisted of two hard, wooden chairs and a bare old oak desk. Needless to say, the establishment evinced an atmosphere of coldness.⁶¹

The agent indicated that the process of bonding began with a telephone call from the person accused of a crime or a visit to the jail by an agent. Next the bondsman had to determine if the person was a "good risk" or a "bad risk." He described a good risk as a defendant who owned property, has lived in the city for a substantial number of years and has good working habits. On the other hand a bad risk was described as a defendant who is unemployed, a non-property owner of a person from another state. Other data received

⁶⁰All interviews took place February of 1976.

⁶¹The agent's name was not requested in hope of securing more information.

from the agent showed that this bonding company operated under the Georgia state law which regulated the cost of selling bailbonds.⁶² The law states that a fee of ten percent can be charged for the first \$500.00 and five percent thereafter, (if you were under a \$1,000.00 bond, you would be charged \$75.00 if the agent represented you). Money paid to a bondsman is never returned to the party making the bond.⁶³ This bond is an appearance bond and after the accused appears for trial, the bondsman is released of all his responsibility.

On this subject of defendants who do not appear for trial, the agent indicated that their company had special agents called "catch men" or "bounty hunters." As this interview progressed, one of the "catch men" came into the office and proceeded to volunteer information.⁶⁴ Both men indicated that the bond maker was notified by their company as to the court date set for the bond maker either by letter or telephone.⁶⁵

⁶²The agent indicated his company followed the law very strictly.

⁶³Most writers on this subject agree that this is one of the major shortcomings, especially if the accused is proved innocent.

⁶⁴The catch man was not consulted, but after he began to volunteer information notes on his statements were taken.

⁶⁵Upon leaving Atlantic Bonding Company, Cagle Bonding Company and Ace Bonding Company were visited. However they offered little or no information and were evasive. Therefore another bonding company was visited. The name of this

At a second bonding company, the agent emphasized that each case was different. He compared the bonding company to a bank that loaned money. The procedures as to screening the potential bondmaker would be much the same as if it was a banker checking credit before he made a loan.

This agent also brought up the term "extended credit" into the interview session. He defined "extended credit" as giving bond on a promise to pay at a future date. He indicated that this was a common practice for his bonding company on weekends and holidays periods when normally defendants do not have access to their bank accounts and/or cannot cash checks.

Another occasion on which extended credit was deemed appropriate was to aid defendants who could not at that time afford to make bond, but who had a job and were stable in community. The agent claimed his company did not charge any interest on this money.⁶⁶

On the subject of "catchmen," the agent for King Bonding Company offered another bit of interesting data. He stated that a policy of his company was to send black "catchmen" to apprehend black bail jumpers and white "catchmen" to apprehend white bail jumpers. The reason offered

company was King Bonding and the employees of this establishment were very willing to co-operate and offered any information asked of them.

⁶⁶This bit of information was amazing given the fact that a bondsman in a profit seeker. (This researcher wondered as to the validity of that statement.)

for this policy was in an effort to eliminate the charge of racial harassment by the bail jumpers.

The last important data received from this agent concerned the company's policy on denying a bond to certain people. He indicated that bonds were not given to dope pushers and prostitutes. This policy is adhered to because King Bonding Company thought dope pushers and prostitutes were more likely to jump bail.

Still another agent was interviewed at Harris Bonding Company. He suggested that his company did not issue bonds for people accused of crimes such as rape, treason and bizarre murders. The agent for this company showed me Supreme Court cases that protect, guide, regulate and strengthened the bonding institution. Some were as follows: 1. Taylor v Taintor; 2. Field v United States; 3. United States v Schneiderman; 4. Allison v People; 5. United States v Davis; 6. Stanton v United States, and 7. United States v Smaldone.⁶⁷

Another comment this particular agent made was concerning pretrial federal release program. The purpose of this program is to provide federal funds for the poor. Few people are aware that this program exists and no bondsman goes all out to inform those who can surely benefit from it.

Bailbonding is a big business and some of these bonding agents worked for specialized insurance companies that write million of dollars worth of bonds a year. A bondsman can collect two or three times from the same defendant. This

⁶⁷Some of the cases are presented in Chapter II.

is because of the legal technicalities that require new bail to be posted each time a defendant appears before the court or on each count of the offenses he committed. Without a doubt the bondsmen surely reap the benefit from the bail system in the United States.

In a study⁶⁸ conducted by the Association of the Bar of the City of New York, it was found that bondsmen may require a defendant to put up property in the amount of the entire bond even if the defendant has put up the legal monetary premium. Also in that same study the findings supported the fact that "fee splitting" was apparent in the bonding process.⁶⁹ Fee splitting is when the bondsman encourages a defendant to obtain a certain attorney for his defense as a criterion for him posting bond. If the attorney is obtained through the bondsman's reference, then the attorney will kick back part of his earnings to the bondsman.

The problems this procedure nurtures is that the well being of the defendant is lessened. This study also supports the fact that bonding companies work with the courts to achieve the ends of the courts. It was stated in Chapter II that bail is sometimes denied by the courts for

⁶⁸The Association of the BAR of the City of New York: Committee on the Criminal Court of the City of New York, "Bail or Jail," (New York City Bar Association, 1963), p. 5.

⁶⁹Ibid., p. 14.

"rehabilitation" reasons for some first offenders. This statement is consistent to the findings in the above study conducted by the City of New York Bar Association. The following is a transcript from a Felony Court involving juveniles charged with larceny:

The Court: The only thing I say is this: I'm going to insist that these boys are not bailed out. I'm going to set such bail that they will not be bailed out. If the parents will voluntarily agree not to bail them, I'll not set real high bail. But if they don't voluntarily agree, I'll set such high bail they won't be bailed out... Let them see what the inside of these jails look like. Maybe that will be a deterrent to them...⁷⁰

The transcript went on to say:

...Maybe a couple of days in jail will solve the problem...I am going to set \$5,000.00 bail on each. Now, I am leaving word that if bond is presented, the matter is to be sent back to me, and I'll tell you right now, if they put up \$5,000.00 bail, I'll make it \$10,000, and if they put up ten, I'll make it \$25,000.00. I want these boys to spend one or two days in jail...I think that the only way to teach these boys anything is to give them a taste of the inside of a jail...⁷¹

Even though the boys had no prior record⁷² they were subjected to detention. The determination of the courts to detain the boys and the bonding companies cooperating with the courts made freedom a distant dream for those two boys. The accounts above took place in the city of New York. However, the larger question is, does this procedure take place all over the United States?

⁷⁰Ibid., p. 16.

⁷¹Ibid., pp. 16-17.

⁷²Ibid., p. 16.

The data in this chapter indicated that economic, political, cultural and social factors impacted upon judicial discretion in such a manner that the supposedly neutral process of bailbonding could be and is sometimes rendered biased. The people that seem to be victims of these circumstances are usually poor, Black or those engaged in some type of political activities.

Furthermore under the present structure of bail bonding, the only beneficiary is the bondsman. Consequently the defendants stand a great chance of paying out money even though they maybe found totally innocent of any wrong doing. Also the literature suggest that the bail system in America is economically self defeating since the cost of detaining defendants is so high.

CHAPTER IV

ATTITUDINAL SURVEY OF ADMINISTRATORS OF BAIL IN FULTON COUNTY

The purpose of this chapter is to gauge the attitudes of those individuals in Fulton County who are responsible for the administration of bail in an effort to determine if their views concerning bail offer any explanations of why there seem to exist a dual administration of justice within the bail bonding system. The review of the literature revealed several principles thought to be characteristic of the administration of bail in the United States. First, the administrators were not biased toward any group. Second, the administrators handled each case based upon its own legal merit. Third, the administrators used bail only as an appearance mechanism.

Therefore, in this chapter an effort will be made to determine if the administrators of bail in Fulton County demonstrated similar attitudes and opinions on these and other concerns. Interviews were set up and questionnaires were sent out to bondsmen, lawyers, and judges to aid in the process. Understanding the attitudes of these administrators could lead to some answers concerning some of the shortcomings of the bail system. (Tabulations of the interviews and questionnaires are in Appendix B.).

A total of two hundred questionnaires were sent out and one hundred and thirty individuals responded. These respondents represented a cross section of the Fulton County area and an overwhelming majority responded to all of the items on the questionnaire. Some even offered other information by attaching letters.

At the outset, this study found that bail is not constitutionally guaranteed, but is guaranteed by statute, the Judiciary Act of 1789. However when questioned about whether or not bail was a privilege or a right, 31% of the respondents felt that bail was not in fact a right all citizens should enjoy. This could indicate why bail is sometimes set excessively high for some defendants.

The Eighth Amendment of the United States Constitution states that "bail should not be excessive." This terminology within itself is very vague and can be interpreted various ways. It seems however that a person's economic stability, income and employment status would certainly be contributing factors in determining what amount is or is not excessive. Yet under the present system, the above items do not serve this end; instead they determine whether or not a defendant is given pretrial release or is detained. This phenomenon serves to the detriment of the poor.

Since this question is one that is advanced repeatedly it was deemed necessary to entertain that notion on the questionnaire. The question asked was, should bail be any higher than the defendant can afford? Thinking

along the lines that bail should not be excessive, responses were expected that would reflect this notion also. However, this was not the case because most felt that income should not be a factor in determining the amount of bail a defendant has to pay. Sixty-three percent (63%) of the respondents felt that income should not be a factor in setting bail. Instead, they felt that only the crime the defendant is charged with should be the deciding factor. This could be the answer as to why so many poor people are detained before their trial because, in a very real sense, bail set out of their economic grasp.

The above set of facts lead to another interesting phenomenon concerning the acquittal of defendants detained before trials as compared to those defendants obtaining pretrial release. In Chapter III the data obtained suggested that pretrial release plays an important role in deciding defendants' guilt or innocence.¹ According to the study, the psychological effect of seeing a defendant escorted into the courtroom by a marshall leads to preconceived opinions about the defendant.

In an effort to determine how the members of the criminal justice system in Fulton County felt about this notion, interviews were administered and also a section of

¹ See Ronald Goldfarb, Ransom, (New York: Harper and Row Publishers) 1965 and also his article found in The New Republic entitled "The Great Bail Scandal."

the questionnaire dealt with this issue. All the judges interviewed stated that pretrial release did not have any effect on the outcome of the trial while the majority of the bondsmen and lawyers felt to the contrary.

Seventy-two percent (72) of the questionnaire respondents stated that people out on bail stand a better chance of being acquitted than people who were not awarded pretrial release. Generally lawyers believed that pretrial release was a positive factor in gaining an acquittal because the defendant could help in preparing his defense if he was not detained.

Even though the bondsmen were reluctant to respond to the above issue, they did express a desire for a defendant to be able to acquire pretrial release. This response was expected since their livelihood is determined by whether or not they are able to sell bonds.

Ninety-five percent of the lawyers, bondsmen and judges questioned stated that the only purpose of bail was to assure that the defendant appeared for court. However when asked in a "check" question whether or not bail had other usages forty-six percent answered in the affirmative, forty-nine percent responded negatively and five percent offered no opinion. Among those respondents who thought bail had usages other than for the defendant's appearance several other purposes were given.

Some stated that bail was used as protective measure (for jurors and witnesses to protect them from possible

hostile defendants), and one judge stated that the purpose of bail was to permit the defendant to get back on the streets so he could continue to work and support his family.² The judge felt that by doing this neither the defendant nor his family would be a burden to the taxpayers.

The response of this particular judge left itself open for criticism on several grounds. Number one, if the purpose of bail was as he stated, then why is bail set out of the financial reach of many defendants. Number two, why is a new bond set if the trial is transferred to a higher court. If money is to be the determining factor and the defendant does not have the sum requested, then the defendant would definitely be a burden to the taxpayer either directly or indirectly. If the defendant is the breadwinner for his family, the taxpayers pay for the aid to maintain his family and also for his incarceration.

In an effort to gauge the attitudes of the people responding to the questionnaire concerning the administering of bail to Black people, other minorities and civil rights activists, questions were asked to generate their opinions. Forty-nine percent of the respondents felt that Black and other minorities were discriminated against through the administration of bail. Forty-four percent felt that Blacks and other minorities were not discriminated against through

²This response was given by a judge in the Atlanta Criminal Court. His name and all other names will be given at the request of the respondents.

the administration of bail and six percent offered no response.

The data collected indicate that one hundred percent of the judges interviewed and a great percentage of the bondsmen felt that Blacks and other minorities were not victims of discrimination as a result of the administration of bail. On the other hand, it was the lawyers that felt that the reverse was in fact reality.

When questioned whether or not bail for civil rights activists was higher than necessary, the trend was similar to the above responses. All of the judges stated that the bail for this group of people was not unnecessarily high. Overall, forty-nine percent of the people questioned felt that bail for the civil rights activists was set too high. Fifteen percent said that bail was not set too high for this group and thirty-five percent did not offer an opinion mainly because they were not "knowledgeable" enough on this particular concern to respond intelligently.

The factor that all progressive people should ponder very carefully is that the people responsible for determining bail (the judges) stated that they felt bail was not too high for the activist. If one juxtaposed this notion to factual information found in the literature, one would find an obvious contradiction.

According to findings of The Report of the National Advisory Commission of Civil Disorders, demonstrators of the

1960 era were charged a higher amount of bail than the commission deemed necessary.³ Also, patterns of discrimination are evident in the administration of bail as it exist today.⁴

The literature suggest that people who have community ties should be considered for pretrial release based on their written promise to appear in court. This act is commonly called release on one's own recognizance. If a defendant has a home, a family and a job in the place where the crime is committed, most likely the defendant will not skip town to avoid court appearance. Even though the above may be the general mode of thinking, some of the people that responded to the questionnaire felt to the contrary.

As a matter of fact, thirty-seven percent of the respondents felt that even if a person had community ties he should not be released on his own recognizance and six respondents or five percent of those questioned did not respond. However fifty-eight percent stated that given the fact that an accused person had community ties he should be able to obtain pretrial release on his own recognizance.

Some of the literature suggests that the bailbonding institution is being infiltrated by components of organized crime in some parts of the United States. In the Fulton

³See Chapter III.

⁴See Chapter V, VI, and VII.

County area, based upon the questionnaire fifty-six percent of the respondents did not agree with this notion. However eleven percent of them felt that organized crime played a vital role in the bailbonding institution in the United States. For various articulated reasons, thirty-four percent of the respondents did not respond to this particular concern. Some indicated that question was too touchy to merit a response. Still others felt they did not have enough data to make a judgment on this concern.

Still another interesting occurrence in the literature is focused on the possibility of members of the criminal justice system receiving "kickbacks" from bondsmen. This kickback is supposed to repay the favor of referring defendant to a certain lawyer for future considerations. Of course this practice is illegal and unethical.

Yet, thirty-four percent of the respondents felt that this illegal procedure was practiced in the Fulton County Area. Forty-one percent felt that kickbacks were not practiced in Fulton County and twenty-five percent did not respond, probably because they deemed the question too controversial.

Given the problems and discrepancies that exist in the present administration of bail, one would be led to think that the judges, lawyers and maybe even the bondsmen would like to see the system reorganized or restructured. Even though they did not offer alternatives to the present system, the majority of the respondents (80%) were not satisfied

with the administration of bail as it exists in the United States today. Eighty-three percent stated that a definite reorganization was in order.

Even though many respondents (78%) felt that bail bondsmen should not be eliminated, they expressed desires to see more release on one's own recognizance, especially those defendants who have economic and social roots in the community in which they live. These interviews and questionnaires were conducted with key personnel in the bail system of Fulton County. These people, as a whole did not find discriminatory practices although discrimination is clearly evident in the data. The data in the following chapters are ample evidence of discrimination, whether it is intentional or not.

After reviewing the literature and probing the attitudes of various administrators within the bail system of Fulton County, it is apparent that consistency does not exist on some of the more important issues concerning bail. Based on some of the responses given, one should understand why certain segments of the population feel that they do not get a fair chance from the bail system. This can be surmised by the great number of respondents that stated income should not be a factor in setting bail.

Clearly this has a negative impact on the poor and the unemployed. We are told over and over that defendants are innocent until proven guilty. Yet many innocent people

are detained because of an inability to pay the premium for a bailbond. This fact is alarming considering the study by Goldfarb⁵ that indicates people out on bail stand a better chance of being acquitted than those that are detained before their trial.

⁵See Chapter III.

CHAPTER V

AN ANALYSIS OF BAIL AWARDED IN FULTON COUNTY

1950-1978

In this chapter, data relating to the awarding of bail in Fulton County, Georgia during the years 1950 through 1978 are presented. These data were obtained from the Fulton County Jail cards and the Fulton County Jail dockets.¹

The data will be stratified according to the crime, age, sex, race and the amount of bail each defendant was required to pay. These data should yield some insights into the patterns of awarding bail in Fulton County given the variables used in this study. In a general sense these data should serve as an aid in determining whether or not there are discriminatory practices in the administration of bail in Fulton County. More specifically these data should generate information to substantiate or reject propositions "c" through "e." Those propositions stated:

¹Information usually found in the files of the Fulton County Jail is transferred to the Atlanta Historical Society after a period of about ten years. The information found on the file cards in the Fulton County Jail and the information found in the dockets at the Atlanta Historical Society are about the same, but with one major exception. That exception being that in the latter the occupational information is not given. Therefore it was necessary to talk to employees of the Fulton County Jail to get as much information as possible concerning the occupational patterns of defendants housed in the jail during this period of study (1950-1960) as well as the next period of study (1961-1970).

- c. That bail will tend to be higher for Blacks than for whites committing the same offense during the time period examined.
- d. That bail for males will tend to be higher than that awarded to females committing the same offense.
- e. That bail will tend to be higher for poor people than "non-poor" people committing the same offense.

The composite data of bail by crimes during the period 1950 through 1978 are displayed in Appendix "c," "d" and "e." Section A of this chapter is a presentation of data on the amount of bail stratified in terms of race and age² and Section B is a presentation of data on the amount of bail required stratified as to race and sex.

Bail Required by Race, Age and Sex

Table 5-1 contains information concerning the crimes theft by taking. As one can detect from viewing the table, information is displayed as to the age, race and bail of defendants charged with theft by taking. Through the use

²Upon reviewing the data collected for this study, it was found that the ages of the defendants ranged from seventeen years old to sixty-five years old. Yet, there were not enough defendants over the age of fifty to add any value to this study if they were isolated into a separate category. Therefore in an effort to allow age to serve as a control for race, two categories were formed. The defendants were categorized into age groups from seventeen years old to thirty years old and from thirty-one years old to sixty-five years old. This in part, will allow us to determine if age as opposed to race is a more important factor in setting the amount of bail a defendant is charged.

of interviews³ it was determined that on a whole the Black defendants during this period were either unemployed, underemployed or generally had low paying jobs. The white defendants on the other hand enjoyed a greater income and/or earning capacity.

The data in Table 5-1 reveal that the Black defendants in the age category from seventeen to thirty years of age paid \$100.00 more for bail than the three other categories in the same table. The defendants in the other categories were all charged \$200.00 for their bailbond. (See the table below.)

TABLE 5-1

THEFT BY TAKING; MEDIAN BAIL BY RACE AND AGE
N=251

AGE	RACE	BAIL
17 - 30	Black	\$300.00
31 - 65	Black	\$200.00
17 - 30	White	\$200.00
31 - 65	White	\$200.00

This indicates that overall the white defendants have to raise less money to obtain pretrial release, hence making it less likely they will be detained.

³These interviews were with the Fulton County Jail Administrators to determine the occupational background of the defendants since this information was not available in Jail Dockets, except for the eight year period from 1971 to 1978.

Given the fact that Black defendants in Table 5-1 are largely either unemployed or underemployed, their chances of raising the bail money is limited. Also, since many of them fall under the bad risk category, bondsmen may not post their bond. Ultimately, the defendants end up in jail which further limits and restricts their means of raising the required bond money.

The next crime to be discussed in Section A is rape. The awarding of bail for rape is usually the exception rather than the rule and this notion is supported by the data generated from this study. An analysis of the defendants who are granted bail when charged with rape indicates that defendants from both races, in the age category from seventeen to thirty, were charged \$1,000.00. (See Table 5-2)

TABLE 5-2

RAPE; MEDIAN BAIL BY RACE AND AGE

N=120

AGE	RACE	BAIL
17 - 30	Black	\$1,000.00
31 - 65	Black	\$2,000.00
17 - 30	White	\$1,000.00
31 - 65	White	\$3,050.00

The median bail for defendants from both races, in the age category from thirty one to sixty-five, is higher than the median bail of both races in the age category from

seventeen to thirty. The median bail charged to the Black defendants in the thirty-one to sixty-five age category is \$1,000.00 more than the median amount charged to both races in the younger age bracket. Also, the median bail charged to the white defendants in the older age category is not only \$2,050.00 more than the median bail of the younger age category of both races, but is also \$1,050.00 more than the median bail of Black defendants in the same category.

Even though the Black defendants in the younger age category were charged the same amount as their white counterparts and even though the Black defendants in the older age category were charged \$1,050.00 less than their white counterparts, this should not be only factor used in an effort to determine if Blacks were discriminated against on a larger scale than whites when charged with rape. Another factor, which in the case of rape may be more important than the amount of bail required, is the number of Black defendants who were not even granted bail as compared to the number of white defendants who were granted bail. This information is displayed in Table 5-3 and indicates that Black defendants are granted bail in fewer than their white counterparts.

More specifically, 62% of the Black defendants in the age category from seventeen to thirty were denied bail as compared to 58% of their white counterparts. The Black defendants in the age category from thirty-one to sixty-five had the greatest percentage of cases in which bail was

TABLE 5-3

RAPE: PERCENTAGE OF DEFENDANTS DENIED
BAIL BY RACE AND AGE

AGE	RACE	PERCENTAGE
17 - 30	Black	62%
31 - 65	Black	80%
17 - 30	White	58%
31 - 65	White	50%

denied when compared to the other groups charged with rape. Eighty percent of the Black defendants in the older age group, whose median bail was higher than all the other groups, had the smallest percentage of its members being denied bail because only fifty percent of the white defendants in the older age group were denied bail.

These data suggest that over all the white defendants stood a better change of pretrial release when compared to the Black defendants who were charged with rape. This conclusion was reached because a slightly higher bail is more advantageous than not having bail awarded, a situation in which a greater number of Black defendants found themselves.⁴

⁴Still another factor of concern is the disproportionate number of Blacks charged with rapes as compared to whites. History has shown that white women often accuse Black men of rape when the charge is not justified and the Scottsboro Cases are examples. (See Powell v. Alabama 287 U. S. 45 and Norris v Alabama 294 U. S. 587.)

The data concerning murder is also revealing as well as perplexing and in many ways similar to the previous crime of rape. After viewing Table 5-4, we can surmise that bail was awarded rather consistently. Of the defendants allowed bail in each age category, the median bail was \$2,000.00.

TABLE 5-4

MURDER; MEDIAN BAIL BY RACE AND AGE

N=100

AGE	RACE	BAIL
17 - 30	Black	\$2,000.00
31 - 65	Black	\$2,000.00
17 - 30	White	\$2,000.00
31 - 65	White	\$2,000.00

The factor of distinction, as in the cases of rape, is the percentage of Black denied bail as compared to the percentage of whites denied bail. (See Table 5-5)

TABLE 5-5

MURDER; PERCENTAGE OF DEFENDANTS DENIED

BAIL BY RACE AND AGE

AGE	RACE	PERCENTAGE
17 - 30	Black	72%
31 - 65	Black	74%
17 - 30	White	63%
31 - 65	White	64%

The Black defendants in both age categories, whose percentages of bail denial were 72% and 74% respectively, were denied bail at a greater percentage rate than their white counter-parts whose rate of denial was 63% and 64% respectively. This reality makes pretrial release for most Black defendants charged with murder a distance dream.

The crime of burglary yields even more critical information concerning the awarding of bail. (See Table 5-6 below.) The analysis of the data concerning burglary indicated that both races had approximately the same cases

TABLE 5-6

BURGLARY; MEDIAN BAIL BY RACE AND AGE

N=254

AGE	RACE	BAIL
17 - 30	Black	\$2,000.00
31 - 65	Black	\$3,000.00
17 - 30	White	\$1,000.00
31 - 65	White	\$1,000.00

reported. However, the committal rates are the only apparent similarities because in both age categories, seventeen to thirty and thirty-one to sixty-five, Blacks, comparatively speaking, were given higher bail than their white counterparts. Black defendants in the age category from seventeen to thirty paid a median bail of \$1,000.00 more than the white defendants in that same age group and also \$1,000.00 more than the white defendnts in the older

age group. The Black defendants in the age category from thirty-one to sixty-five, whose median bail was \$3,000.00 was required to pay more for a bailbond than any of the other groups.

This disposition of bail indicates that the white defendants have a distinct advantage in getting pretrial release, especially given the occupational backgrounds of the Black defendants discussed previously in this chapter. Hence the data suggest that even though the same offense was committed, the awarding of bail was such that Black defendants were at a comparative disadvantage.

The last crime to be considered in this section is prostitution. The data suggest that bail was awarded on a

TABLE 5-7

PROSTITUTION; MEDIAN BAIL BY RACE AND AGE

N=83

AGE	RACE	BAIL
17 - 30	Black	\$1,000.00
31 - 65	Black	\$1,000.00
17 - 30	White	\$1,000.00
31 - 65	White	\$1,000.00

fairly equal basis for both races in each age category. The median bail for each group was uniformly set at \$1,000.00, a finding that was not apparent in any other crime this

study encompasses.

In this section, bail awarded by race and sex, there is sufficient evidence to show that more Black people than white people are "victimized" as a result of Fulton County's administration of bail. Black people were charged higher bail in all cases except prostitution.⁵ Also, after determining from the interviews with jail personnel that the majority of these defendants were also poor, one is led to question whether or not the Eighth Amendment of the United States Constitution has been breached. Hence proposition "c" and "e" are demonstrated to be correct.

To test the validity of proposition "d," which stated that bail for males will tend to be higher than that awarded to females committing the same offense, data were stratified according to race and sex.

The same crimes, except rape and prostitution, were analyzed to draw conclusions. The crimes of rape and prostitution were purposely omitted from this section because the nature of these crimes are such that they do not lend themselves to this heterosexual comparison.

Theft by taking is the first crime examined in section B and by viewing Table 5-8 several conclusions can be drawn. Firstly, the median bail for males was \$300.00, which is \$100.00 more than the median bail for females whose median

⁵Black and white defendants were charged the same bail for murder, but Black defendants were denied bail in more cases than their white counterparts.

TABLE 5-8

THEFT BY TAKING; MEDIAN BAIL BY RACE AND SEX

RACE	SEX	BAIL
Black and White (Combined)	Male	\$300.00
Black	Female	\$300.00
White	Male	\$300.00
Black and White (Combined)	Female	\$300.00
Black	Female	\$300.00
White	Female	\$100.00

bail was \$200.00. Secondly, the median bail for Black male and the white male is also \$300.00. Thirdly, the median bail for the Black female is the same as the Black and white male defendants; however, it is \$200.00 more than the white female. This indicates that of all the groups studied the white female is required to pay less for a bail-bond when charged with the crime theft by taking. Therefore one can assume that the reasons Blacks as a race paid more for a bond when charged with theft by taking was because of the noticeable difference in the amount of bail required for the Black female as compare to the white female.

In analyzing the crime of murder along racial and sexual lines, an obvious disparity exist in the committal rate of males when compared to females. (See Table 5-9.)

TABLE 5-9

MURDER; MEDIAN BAIL BY RACE AND SEX

RACE	SEX	BAIL
Black and White (Combined)	Male	\$4,000.00
Black	Male	\$7,500.00
White	Male	\$1,000.00
Black and White (Combined)	Female	\$5,500.00
Black	Female	\$5,500.00
White	Female	No Bail Granted

The committal rate is almost six to one with the males being higher. The white female had the smallest committal rate yet none of them was granted bail. Black females were charged with murder on a larger scale than white females, however, they were granted bail only in 13% of the cases and their median bail was \$550.00.

The Black male, whose median bail was \$7,500.00, was higher than any other group awarded bail and was denied bail on more occasions than the white male. The Black females, when compared to the males of both races, had a higher rate of bail denial and a higher median of bail than the white males.

The data seem to indicate that the females convicted of murder were charged less for bail when bail was in fact

granted, yet the percentage of cases of females being denied bail is greater. However one must keep in mind the limited number of female cases surveyed as compared to the number of male cases surveyed.

TABLE 5-10

MURDER; PERCENTAGE OF DEFENDANTS DENIED
BAIL BY RACE AND SEX

RACE	SEX	PERCENTAGE
Black and White (Combined)	Male	76%
Black	Male	74%
White	Male	60%
Black and White (Combined)	Female	87%
Black	Female	87%
White	Female	100%

The data concerning burglary, like that of theft by taking, makes for a stronger argument that males are charged more for a bailbond than females. (See Table 5-11.)

TABLE 5-11

BURGLARY: MEDIAN BAIL BY RACE AND SEX

RACE	SEX	BAIL
Black and White (Combined)	Male	\$1,500.00
Black	Male	\$3,000.00

TABLE 5-11 Continued

	SEX	BAIL
White	Male	\$2,250.00
Black and White (Combined)	Female	\$ 500.00
Black	Femlae	\$ 500.00
White	Femlae	\$ 100.00

The median bail for males was three times that of females. Also the median bail for the Black males was \$750.00 more than that of white males and \$2,900.00 than that of white females. Even though the Black female paid less than the white male, she paid five time more than the white female.

CHAPTER VI

SOCIAL CHANGE AND SOCIAL DISORDER AND THEIR EFFECT ON THE ADMINISTRATION OF BAIL

The purpose of this chapter is twofold. The first purpose is to determine the validity of proposition "f" advanced earlier, namely:

That bail for Blacks, poor people and males will tend to be higher during periods of high stress against social institutions.

To test this proposition the periods of 1950 through 1978 will be divided into three distinct periods, each covering about ten years. The three periods will be as follows: 1950 to 1960, 1961 to 1970 and 1971 to 1978. These periods were specifically selected so that we can assess rates of bail for the classes specified above during the 60's, a period of high social stress in the United States in general and Atlanta in particular and compare them to the rate of bail assigned to the same classes of defendants during periods of social stress.

The second purpose of this chapter is related to the first, however; it is to try to develop tentative explanations of the effects of social disorder upon the administration of bail in general.

The preceding chapter of this research project clearly notes that inconsistency and discrimination are apparent in the administration of bail. The poor, Blacks and males are discriminated against and are trapped in the political and social maze of the bailbonding system. Looking at the plight of the poor in each of the periods studied and especially 1971-1978, it is clear that their bail bonds were unconstitutionally high. This seems to indicate that an additional penalty is attached because of the defendant's economic insecurity.

If the crime committed is the same and the only variable is income, yet bail for the poor is higher than that of the people afforded a decent income, then maybe there is some truth in the thought that people are penalized for being poor. This fact should not surprise us because this dual system of justice has been in existence throughout the history of man. Examples to substantiate this can be found in the fact that in one period of history people caught begging were imprisoned and that poor people could not marry out of their class. This is to say that higher bail bonds is just a modernized method of oppressing the poor.

It seems that conditions and circumstances causing poverty should be considered in setting bail, but this is left up to the discretion of the judge. This author suggests that one rationale for overlooking the causes of poverty and thus setting bail exceedingly high could be the belief in the

protestant work ethic by judicial authorities. Believers in the protestant work ethic feel that anyone who works hard does not have to be impoverished and it is the fault of the individual (ie: laziness) if he does not achieve success.

Therefore the higher bail awarded to poor people could be viewed as one of many mechanisms to remind the poor that they are not living up to the expectations of the protestant work ethic. However, these same people that are determining the fate of others fail to critically look at the system that causes people to be poor in the first place.

Even though one's economic condition should be considered, it seems as though the only thing taken into account is that a crime has been committed. This is clearly articulated by Isaac Balbus when he wrote the following:

Formal legal rationality dictates that the administration of justice responds only to specific acts; that only the empirical question of whether or not a formally proscribed act has been committed is a relevant criterion for the application of punitive sanction. Strictly speaking, the question of the substantive motivation for the act is irrelevant to the determination of guilt; the law responds not to the "why" of the acts but simply to the facts that it has or has not been committed...¹

If the above is correct, then the Eighth Amendment to the United States Constitution is not worth the paper it was written on. Clearly one's economic condition should come into focus when trying to determine whether or not bail is excessive.

¹Issac D. Balbus, The Dialectic of Legal Repression, (New York: The Russell Sage Foundation, 1973), p. 8.

Looking further into the discriminatory practices found in the administration of bail as it relates to this study, attention should again be focused upon race and sex. The race and sex of defendants should not be variables in determining the amount of bail required. However, the data clearly show they were taken into account, whether consciously or unconsciously, in the period examined (1950-1978) in this study.

In effort to determine which of the periods studied exhibited the most visible patterns of discrimination in relation to race and sex, the crimes in this study will be isolated in each period for review. At the outset this author hypothesized that the discrimination would be more visible during periods of social and political unrest.

Of the three periods surveyed in the chapter, the period of 1961 to 1970 is considered the period characterized as experiencing the greatest degree of social and political unrest. This conclusion was reached because of the racial conflicts in this period that led to disorder and riots in Atlanta and other major cities across the country as well as the anti-Vietnam War demonstrations that were also apparent in this period.² If bail for the period 1961 to 1970 does in fact experience the greatest patterns of discrimination as compared to the other two periods, then the assertions in proposition "f" are true.

²The Atlanta Journal, April 2, 1968, p. 1; April 4, 1968, pp. 4 and 8; April 5, 1968, p. 1, 6, 8; April 6, 1968, p. 1.

The first crime to be analyzed to determine what patterns of fluctuation exist, if any, in each period is theft by taking.

TABLE 6-1

DIFFERENCE IN BAIL REQUIRED BY PERIODS:
THEFT BY TAKING; MEDIAN BAIL BY
RACE AND SEX

	1950-1960	1961-1971	1971-1978
Black	\$200.00	\$200.00	\$500.00
White	\$100.00	\$200.00	\$250.00
Difference	\$100.00	-0-	\$250.00
Male	\$200.00	\$200.00	\$500.00
Female	\$200.00	\$200.00	\$500.00
Difference	-0-	-0-	-0-
Black Male	\$200.00	\$200.00	\$500.00
White Male	\$100.00	\$200.00	\$300.00
Difference	\$100.00	-0-	\$200.00
Black Female	\$200.00	\$200.00	\$500.00
White Female	\$100.00	\$200.00	\$200.00
Difference	\$100.00	-0-	\$300.00

An overview of the above table supports the fact that as a rule Black people are required to pay a higher premium for a bailbond. The data relating to theft by taking indicate that the race of the defendant, not the sex, is a more important indicator as to whether or not the amount of bail required for pretrial release will be higher.

In the period 1950 to 1960, the median bail for the Black defendants was \$100.00 more than the median bail for white defendants. The stratification of the defendants along sexual lines in this period shows no apparent differences in the median amount of bail required. However when the data in the period were stratified according to race and sex, several discrepancies were exposed. Firstly, the median bail required for the Black male, which is \$200.00, is \$100.00 more than the median bail required for the white male and white female whose median bail was \$100.00 respectively. Secondly, the Black female was required to pay the same amount as the Black male, therefore; the Black female also paid more for a bailbond than both the white male and the white female.

These same patterns existed in the period of 1971 to 1978, even though to a greater extent. In the period of 1961 to 1970, a uniformed median of bail was required for each category, which was quite a contrast from the other two periods in the same table.

In the crime of rape, another factor must be considered and that factor should also be considered for the crime of murder. The percentage of the defendants not granted bail will have to be taken into account to race since it is a crime primarily committed by males and therefore there were not enough cases of rape committed by females to make a comparative analysis along sexual lines.

The periods of 1950 to 1960 and 1961 to 1970 showed that the median bail required for Black defendants not only was more than that required for white defendants but Black defendants were also denied bail at a greater percentage rate than their white counterparts.

TABLE 6-2

DIFFERENCE IN BAIL REQUIRED BY PERIODS:

RAPE; MEDIAN BAIL BY RACE

N=120

	1950-1960	1961-1970	1971-1978
Black	\$1,000.00	\$7,500.00	\$1,000.00
White	\$ 750.00	\$5,000.00	\$2,500.00
Difference	\$ 250.00	\$2,500.00	\$1,500.00

TABLE 6-3

DIFFERENCE IN BAIL REQUIRED BY PERIODS: RAPE;

PERCENTAGE OF DEFENDANTS DENIED BAIL BY RACE

	1950-1960	1961-1970	1971-1978
Black	74%	87%	36%
White	44%	62%	0%
Difference	30%	25%	36%

The rate changes apparent for those defendants granted bail in 1950 to 1960 and 1961 to 1970 were \$250.00 and \$2,500.00 respectively and the changes in the percentages of defendants

denied bail were thirty percent and twenty-five percent respectively. The data in the period of 1971 to 1978 indicated that the median bail required for Blacks was less than the median bail required for whites but the Black defendants were denied bail thirty-six percent of the time as compared to the fact that white defendants were granted bail in each case.

Given the fact in most cases the denial of bail is more critical than a slightly higher bail, we can determine that even though Blacks were discriminated against in each period, they actually fared better in the period 1961 to 1970, comparatively speaking.

For the crime of murder, Tables 6-4 and 6-5 will be focused upon to analyze the patterns of rate change in given periods.

TABLE 6-4

DIFFERENCE IN BAIL REQUIRED BY PERIODS: MURDER;
MEDIAN BAIL BY RACE AND SEX

N=199

	1950-1960	1961-1970	1971-1978
Black	\$1,750.00	\$5,000.00	\$5,000.00
White	\$2,500.00	\$5,000.00	\$1,000.00
Difference	\$ 750.00	-0-	\$4,000.00
Male	\$2,000.00	\$5,000.00	\$10,000.00
Female	\$1,500.00	No Bail Granted	\$10,000.00
Difference	\$ 500.00		-0-

TABLE 6-4 Continued

	1950-1960	1961-1970	1971-1978
Black Male	\$2,000.00	\$5,000.00	\$10,000.00
White Male	\$3,000.00	No Bail Granted	\$ 1,000.00
Difference	\$1,000.00		\$ 9,000.00
Black Female	\$1,500.00	No Bail Granted	\$10,000.00
White Female	No Cases Recorded	No Bail Granted	No Bail Granted
Difference			

TABLE 6-5

DIFFERENCE IN BAIL REQUIRED BY PERIODS: MURDER;
PERCENTAGE OF DEFENDANTS DENIED BAIL BY RACE
AND SEX

	1950-1960	1961-1970	1971-1978
Black	84%	95%	71%
White	50%	94%	43%
Difference	34%	1%	28%
Male	84%	93%	50%
Female	75%	100%	98%
Difference	9%	7%	48%
Black Male	86%	90%	75%
White Male	67%	100%	43%
Difference	19%	10%	33%
Black Female	75%	100%	98%
White Female	No Cases Recorded	100%	100%
Difference		0	2%

When stratified according to race, the median bail required for Blacks was \$750.00 less than the median bail required for whites in the period 1950 to 1960, the same in the period 1961 to 1970, and \$4,000.00 more in the period 1971 to 1978. However, in each period the percentage of Blacks denied bail compared to whites was greater, thereby making pretrial release harder to obtain for Black defendants charged with murder. Looking closer at Table 6-5, we can determine that the rate change of defendants denied bail is least apparent in the period 1961 to 1970. These data suggest that of all three periods, Blacks stood a better chance of pretrial release in the period 1961 to 1970.

When the data concerning murder were stratified along sexual and racial lines, a coherent pattern of rate change did not exist as was obvious in other crimes of this study. The females, white females in particular, seemed to have gotten the most harsh treatment when compared to the other groups. (See Tables 6-4 and 6-5.) They had more cases of bail being denied than any other group, even though in the first period there were no recorded cases of white females committing the crime of murder. Again the data suggest that males were discriminated against least in the second period when compared to the other two.

The crime of burglary yields information similar to that found in the crime theft by taking. In terms of the racial factor, Blacks were required to pay a median bail

that was higher than whites in each period and though the rate change for the races remained the same in the first and second periods it was greater in the third period.

The information dealing with males vis-a-vis females show the same trends existing in terms of both the median amount of bail required and the patterns of rate changes. The Black male in each period was required to pay more for bail than any other group but the Black female actually paid less than any other group comparatively speaking. (See Table 6-6.)

TABLE 6-6

DIFFERENCE IN BAIL REQUIRED BY PERIODS:

BURGLARY; MEDIAN BAIL BY RACE AND SEX

N=254

	1950-1960	1961-1970	1971-1978
Black	\$2,000.00	\$2,000.00	\$3,000.00
White	\$1,000.00	\$1,000.00	\$1,000.00
Difference	\$1,000.00	\$1,000.00	\$2,000.00
Male	\$1,000.00	\$2,000.00	\$2,000.00
Female	\$ 500.00	\$ 500.00	\$5,500.00
Difference	\$ 500.00	\$1,500.00	\$1,500.00
Black Male	\$2,000.00	\$2,000.00	\$3,000.00
White Male	\$1,000.00	\$1,000.00	\$1,000.00
Difference	\$1,000.00	\$1,000.00	\$2,000.00
Black Female	\$ 600.00	\$ 500.00	\$ 500.00
White Female	\$ 500.00	\$1,000.00	\$ 750.00
Difference	\$ 100.00	\$ 500.00	\$ 250.00

Overall Blacks and males fared better in the second period so far as rate change is concerned because during this period the rate change was lower or was the same as the other periods, even though in each period they actually paid more than their white and female counterparts.

The data generated from prostitution are only stratified along racial lines since this crime is primarily committed by females and therefore not enough cases of males committing this crime were evident to make a worthwhile analysis along sexual lines. The administration of bail for both races committing the crime prostitution as a whole is more uniformed than any other crime examined in this study. Even though the Blacks in the period of 1950 to 1960 were required a median bail of \$250.00 more than the whites of that same period, the median bail for Blacks and whites were the same in the other two periods.

TABLE 6-7

DIFFERENCE IN BAIL REQUIRED BY PERIODS

PROSTITUTION: MEDIAN BAIL BY RACE

N=83

	1950-1960	1961-1970	1971-1978
Black	\$750.00	\$500.00	\$1,000.00
White	\$500.00	\$500.00	\$1,000.00
Difference	\$250.00	-0-	-0-

So far as to the assertion that Blacks would actually be penalized more in the period of 1961 to 1970 as compared to

the other two periods is concerned, we again see that this really is not the case.

Overall, in each period of study, Blacks, poor (as determined from the interviews and Appendix E) and males (emphasis on Black males) were required to pay higher bail. The groups named above not only had higher bonds required for them, but also with few exceptions had more cases in which bail was denied outright. It seems that while high bail is repressive, the denial of bail is even more repressive. Yet in each of the three periods studied, the Blacks, the poor, and the males (again emphasis on the Black male) were denied bail more often than the other groups. This, then, supports the notion that there exist double standards in the administration of bail in Fulton County. The sad part is as long as the people with the power to change these double standards fail to realize that they do in fact exist, the problems will never be solved.

At the outset of this research project, part of the hypothesis centered around the notion that bail for the previously named group would be substantially higher in the period of 1961 to 1970. This was hypothesized because this author felt that the social and political revolution of the 1960's would cause bail to rise for the above group in the crimes studied as a means of suppressing criminal and revolutionary activities. This was not the case because generally speaking even though Blacks, poor, and males paid

more for bailbonds than whites, rich and females in each period, they enjoyed lower rates, comparatively speaking, during the 1960's when compared to the other two periods.

This author felt that the 1960's would experience the greatest degree of fluctation for the crimes analyzed in this study but the projected increase was not apparent, instead the amount required for bailbonds was fairly stable and in some cases the rate decreased. The reason for this finding is still related to the political and social revolution that took place.

The criminal justice system was preoccupied with trying to suppress the collective violence of this period that they deemed destructive to the status quo and therefore did not put emphasis on the crimes of this study because they were not a part of the collective violence. As a result, no marked increase was apparent for bailbonds in the crimes mentioned in this study because the criminal justice system did not want to detain these people, hence the lower bail-bond and the lower than expected increase. This author feels that the rationale for the above phenomenon was due to the fact that the criminal justice system wanted to use its resources (example: jail space) for those participants of the collective crimes (looting, burning and demonstration) and collective violence.

Isaac Balbus stated that more emphasis was put on the criminality of the acts of collective violence rather than

their political implication³ because this was an attempt to repress the movement of the sixties. If the "white justices" were to focus upon the criminality of the collective violence, they had to be less harsh in other areas of crimes such as those with which this study deals.

In the period of 1971 to 1978, the period after 1961 to 1970, there exist a rapid increase in bail for males, Blacks and the poor. The reason being that since the political movement of the 1961 to 1970 period had been successfully repressed, the collective violence contained, and the system no longer in danger of being overthrown, attention could now be turned to other every day crimes not associated with collective violence. Consequently higher bail bonds were awarded to the poor, the Blacks and the male population in the period of 1971 to 1978. (See the tables contained in the chapter.)

The Effects of Social Disorder on
the Administration of Bail

The Criminal Justice system is only a subsystem of a larger one existing within society. All of the numerous subsystems work together to maintain order in a society so that day to day routines will not be altered or abolished.

³Balbus, The Dialectics of Legal Repression, p. 12.

The system must be flexible enough to effectively deal with all the demands advanced by various sectors or groups within society.

David Easton, in his book entitled A Systems Analysis of Political Life, asserts that:

If a system is to be able to deal with its daily affairs of converting demands into binding outputs; it is not enough for the members to support the political community...⁴

Easton infers that there should also exist support not only for the system of government but also supports for people in leadership positions of the various subsystems. If for some reason the people fail to support the system or its leader, the system is in danger of being overthrown.

Easton further states that a "system will finally succumb unless it adopts measures to cope with stress."⁵ Usually stress within a system will be apparent when one or more groups within the system feel that there exist a gap between commitment and performance. In efforts to gain some of the demands promised to them but never actually realized, these groups may sometimes resort to activities not sanctioned by the system.

In any effort to control these dissatisfied groups which are perceived as threats to the total system, all

⁴David Easton, A Systems Analysis of Political Life, (New York: John Wiley & Sons, 1965), p. 215.

⁵Ibid., p. 220.

parts of the system usually work together to suppress the hostile groups. This control cannot be accomplished with extra legal means without inviting further stress which would then have a legitimate basis for existence. Therefore the authorities of the system seek to restore control and maintain order through the existing legal structures, which also may be repressive in nature.⁶

While there exist many methods of legal repression, the one this study concerns itself with is the manipulation of the bail bonding system to achieve system maintenance. This is done in various ways and is most apparent during periods of social or political disorders to control collective violence. According to The Report of the National Advisory Commission on Civil Disorders, commonly called the Kerner Report, in periods of social or political disorder the first technique used in effort to restore order is mass arrest.⁷

The report went on to say that not only were the people involved in the disorder arrested, but also innocent spectators were herded into jails.⁸ The commission had sufficient evidence to determine that these massive arrests led to serious deprivation of legal rights.⁹ This massive arrest

⁶This argument is based upon portions of the thesis in Issac D. Balbus' book, The Dialectics of Legal Repression.

⁷Kerner Report, p. 339.

⁸Ibid., p. 340.

⁹Ibid.

tactic led to overcrowded conditions in regular and newly created detention centers. Some of the impromptu detention centers were underground police garages, city buses, and armories which did not have adequate food, water, toilet or medical facilities.¹⁰

Some of these people arrested in period of social disorder were denied the right of a bail bond because they were preceived as being dangerous to the community.¹¹ Others had bail premiums set so high that they could not possibly post bond, hence they had no other choice but to be detained.¹² If an accused defendant was able to obtain the needed revenue to use as bond, there were several legally repressive ways to prevent the defendant's release.

One such method was the creation of special bail policies during civil disorder.¹³ The prosecutors, the councils and the judges worked together in raising the bail to unusually high amounts to keep participants off the streets until the stress was over. Another method used was the multiple charge.¹⁴ If a person was able to raise bail money,

¹⁰ Ibid.

¹¹ Balbus, p. 92-93.

¹² Ibid., p. 109

¹³ Ibid

¹⁴ Ibid., p. 167.

additional charges would be levied and a bond would be needed for each offense. Needless to say, freedom before trial was out of their economic reach.

In some cases when bail was successfully raised, it was not accepted by the bail administrators.¹⁵ Again the rationale was to prevent the defendants from returning to the streets and engaging in further violence. Bail for minor offenders, such as curfew violators was set at almost the same rate as a bail bond for someone who had committed a serious felony.¹⁶ By doing this the system was using bail as a deterrence to future political crimes. As noted before in this research, the purpose of bail is to assure a person's appearance in court to stand trial for an offense he has allegedly committed, not one he may commit sometime in the future.

Even though massive civil disorder is not a common everyday occurrence, when it does occur the system tries to deemphasize the social and political significance which created the disorder in the first place.¹⁷ Instead emphasis is placed on the criminality of participants actions

¹⁵F. Phillip Colista and Michael Domonkas, "Bail and Civil Disorder," Journal of Urban Law, Summer 1968, Vol. 45, p. 341.

¹⁶Kerner Report, p. 341.

¹⁷Balbus, p. 12.

which has an adverse effect on the participants as well as their sympathizers.¹⁸

The misuse of the bail bond institution has also served to destroy several politically active groups.¹⁹ Again, this was achieved through legal but repressive means and massive arrest, high bail and hence the drainage of funds were the rule rather than the exception. After awhile, politically active groups found themselves hurting for funds they so sorely needed in order to maintain their existence. Therefore they had to alter programmed activities and change agenda items which eventually eroded their effectiveness as an organization.

Otto Kirchheimer, in his book Political Justice, argued that:

Repression of activity deemed damaging to the established political order is most comprehensive, of course when the hostile group is made to disband.²⁰

This is in fact what the system did to several politically active groups backing or sponsoring the social disorder in the decade of the sixties. The use of infiltration by special agents of the Federal Bureau of Investigation (F. B.I.) and other governmental agencies served to keep the system abreast of the activities and plans of groups and

¹⁸ Ibid, p. 13.

¹⁹ See Chapter Three of this research project for a complete analysis of this issue.

²⁰ Otto Kirchheimer, Political Justice, (New Jersey: Princeton University Press, 1961), p. 135.

consequently employed techniques to counter the activities of protest groups.

Balbus advanced the argument that because riots and/or collective violence are so infrequent the criminal justice system does not know how to effectively deal with them. Therefore the criminal justice system reacts spontaneously and unplanned, hence the massive arrests and infringement upon personal and civil rights. Based upon the findings of this study, one can say with few exceptions that bail is used as a tool of social control as well as a tool of oppression.

CHAPTER VII

CONCLUSIONS, FINDINGS AND ALTERNATIVES

The present bail system does not provide equal protection of the laws as guaranteed by the Fourteenth Amendment of the United States Constitution and is strict with defendants that are not threats to society. On the other hand, there exist laxity in the administration of bail for those people who have the financial means necessary to acquire bail. The system of bail administered in the American courts burdens the defendants with limited economic means. This prevails because the bail system depends mainly on money to secure the presence of the defendant for trial. Relying mainly on money inherently leaves room for questioning the effectiveness of the bail system. Also questionable is whether or not money is the most effective deterrence for non-appearance by accused defendants. Poor people are systematically denied pretrial release because of nothing more than their state of poverty.

The families of these defendants suffer also because often the accused defendants are bread winners for their entire family. If this is the case, then their earning capacity is cut off abruptly and as a result the family often has to acquire some type of public assistance in the

form of welfare payments, food stamps, and other aid to this type.

The money to pay for the above services is obtained from the taxpayers who are caught in the middle so to speak and are the losers economically speaking. This conclusion is arrived at simply because the taxpayers will have to pay for the cost of incarcerating a defendant if the defendant cannot afford to post a bond. The taxpayer will further have to pay for services rendered to the family of the defendant. Would not it be better economically to set bail within the economic reach of the defendant so that detention will not cause a negative economic chain reaction at the expense of the taxpayers?

This same type of phenomenon is perpetuated in Fulton County, Georgia through the administration of bail. The data show consistently that men, Blacks, and poor people are discriminated against in Fulton County as a result of the present means of administering bail. The various tables throughout this research project indicate that poor people are charged more money for bail than people with a "reasonable" amount of income. Those tables also present evidence that the majority of those who pay more are also Black.

Instead of getting better, the situation seems to be getting worse. The gap between the amount of money poor people and Black people pay for a bailbond vis-a-vis white and non-poor people is getting wider as opposed to being narrowed. Even though this discrimination takes place on

a wholesale basis, it is done in such an unnoticed way that people overlook the fact that it is taking place.

This is a situation that this author refers to as "velvet racism." "Velvet racism" describes those racist acts that are accomplished in such a manner that they are unnoticed. However the results of such acts are just as destructive as those acts of racism that are more overt and in every period this study covered, the same patterns of discrimination took place because of the present system of administering bail. Yet those people in the position to rid the system of its inequalities failed to own up to the realization that inequalities do in fact exist.

Even though these inequalities exist in the present system of administering bail, and even though the economic soundness of the system is also questionable, there are still some people who reap benefits from the bailing process. The literature shows that the bondsmen are the primary, if not the only, profiteers from the administration of bail. The bondsmen can obtain all the money they put up in behalf of the defendant whether the defendant is innocent or guilty; yet the defendant will not receive any of his money back if he acquired the services of the bondsmen.

While the present bail system does not meet the needs of all the people, a great majority of the people in the criminal justice system are content with the money bail system. The interviews with lawyers, judges, and bondsmen

reinforced this belief. The disappointing thing is that these judges, lawyers and bondsmen are continuously overlooking the facts that people are being oppressed as a result of the administration of bail and that a change is definitely in order.

The findings of the Kerner Report tend to support the conclusion that a conscious effort is made during periods of social and/or political disorder to set bail oppressively and unconstitutionally high for people who are part of the collective violence. This deliberate action on the part of the criminal justice system is used as a means to get and keep rebellious individuals "off the streets." The defendants' rights of due process under the fifth amendment, equal protection under the fourteenth amendment, and the prevention of excessive bail under the eighth amendment of the United States Constitution are breached during periods of social and/or political disorder.

The rights of the individual then becomes subordinate to maintenance of law, order and the status quo. Even if these so called rebellious people have a legitimate reason for demonstrating, and creating a state of unrest (example: trying to obtain human rights or civil rights), the system will suppress their movement at any cost. Arrest and high bail are two of the many tools the system will use to maintain order. During times of political and social disorder, the practice of using high bail as a means to suppress the

disorder should not be acceptable. Instead a conscious effort should be made to deal with the causes of the disorder. Otherwise the rights of many people would be infringed upon.

The data generated from this study indicated that during periods of social and political disorder the crimes committed that are not a part of the "collective violence" are not of major concern to the criminal justice system and therefore bail for these crimes are not as high as usual and the punishment is not as harsh. Speculation is that the criminal justice system wants these individuals to obtain bail and release so that more concentration and jail space could be used to suppress the "collective violence." After the "collective violence" is effectively contained, emphasis is again put on the "everyday" crimes. Hence we notice a great increase in bailbond cost and longer detention periods. Therefore it seems that the criminal justice system has a built in mechanism to oppress the people it perceives as a menace.

The information in this study supports the fact that the present system of bail is inadequate. It is the opinion of this author that more people could and should be released on their own recognizance, especially in non-capital cases. This would eliminate the high cost bondsmen charge and at the same time help people with limited incomes. The basic benefits from such a plan are quite simple.

First of all, the defendant is not detained before his trial and is thus allowed to maintain his job. If the defendant can maintain his job, he can support his family and neither will be an economic burden to the taxpayers. If this is practiced routinely, emphasis must be placed on the community ties the defendant has, whether job or family related, as well as the ability of the defendants to convince the authorities that he will appear before the court at the designated time.

The poor and Black would benefit greatly from this system of bail in which one can be released on personal recognizance. Personal recognizance eliminates the money factor that usually cause the poor defendant to be jailed prior to his trial. This would not only benefit the defendants but would also be a means of relieving the overcrowded conditions in American jails.

This author is aware of the fact that release on personal recognizance has been a part of the pretrial release for sometime. However this author is also aware that white people and rich people are afforded this "luxury." The argument advanced here is that more fair and liberal policy should be adhered to in order to help defendants with limited economic means. Many people would argue that if the personal recognizance method of pretrial release were made to be more liberal, the appearance rate of defendants for trial would drop.

This probably would not be the case based upon the findings of the Vera Foundation. The Vera Foundation, founded by Louis Schweitzer and named for his mother, was a bail free project for people charged with various offenses. The Vera Foundation concluded that every time a defendant is released before trial, \$110.00 a day was saved by the City of New York because the cost of pretrial detention at the time of the study was approximately \$123.00 a day compared to a cost of \$13.00 the Vera Foundation incurred for processing. This study was made in the 1960's so the savings today, based upon the facts above, would be enormous.

One study pointed out that of one thousand, eight hundred (1,800) defendants released through the Vera Foundation without requirement of posting bail, only fourteen did not appear for trial,¹ which is less than one percent of the total participants in that study. This figure is remarkable given the ratio of defendants that appeared for court as compared to those defendants that did not appear for court proceeding.

The results of the Vera Foundation's study is proof that money is not always the best inducement for a defendant's appearance for court. The operation of money bail is an example of institutional subordination of non- whites

¹U. S. Congressional Record 87th Congress, May 14, 1964, 10515.

and those people that are deemed problems to society and has been legitimized through the criminal justice system. The efforts of the Vera Foundation have, in fact, saved taxpayers money and guarded the defendants from the humiliation of being detained in jail before the trial.

It was brought to this author's attention by a former worker in the project sponsored by the Vera Foundation that once the project proved to be a success, the City of New York incorporated the project into the operations of the city. The effectiveness of the project has decreased since the city took over its administration because the city is burdened with other projects and has not devoted the necessary time to monitor the Vera project. Yet, if properly monitored a set up such as the Vera project would be very beneficial and economical to operate. Therefore an adoption of the "Vera Plan" is a viable alternative to combat the injustices of the present bail system.

Still another alternative would be the adoption of a nationwide "bail scale" that would fluctuate according to the offense and the income of the defendant. Even though this is recommended for first offenders by this author, it could have limited use in cases of repeaters.

A need for structural change in the present bailbonding system is urgent, if every person, regardless to race, sex, creed, or belief, is to receive equal protection of the laws as stated in the United States Constitution. Given the fact

that the bail bonding system is a part of a larger system, before the evils of the bailbonding system can be alleviated, the larger system that condones discrimination and racism must rid itself of these features. The data in this study indicate that discrimination and racism are both standout features in the present bailbonding system. As stated above this should be changed and hopefully any change brought forth will eliminate the injustices of the bailbonding system in Fulton County, Georgia and in the United States as a whole.

APPENDICES

APPENDIX A

QUESTIONNAIRE

Directions: Please circle the response that best suit your thoughts on the following statements. Read each statement carefully and then answer all of the statements.

1. Bail is a privilege and not a right.

Strongly Agree	Agree	Disagree	Strongly Disagree
1	2	3	4

2. Bail should not be any higher than the individual can afford.

Strongly Agree	Agree	Disagree	Strongly Disagree
1	2	3	4

3. Bail should not be given to poor people because they are apt to skip town.

Strongly Agree	Agree	Disagree	Strongly Disagree
1	2	3	4

4. Bail for Civil Rights demonstrators of the 1960 decade was higher than necessary.

Strongly Agree	Agree	Disagree	Strongly Disagree
1	2	3	4

5. Bail for Civil Rights activists should be higher than the average man on the street.

Strongly Agree	Agree	Disagree	Strongly Disagree
1	2	3	4

6. Bail is used to assure the defendant will appear in court.

Strongly Agree	Agree	Disagree	Strongly Disagree
1	2	3	4

7. Bail has other usages besides assuring the appearance of defendants in court.

Strongly Agree	Agree	Disagree	Strongly Disagree
1	2	3	4

Appendix A Continued

8. The bail system benefits only Bondsmen.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |
9. People who have roots in a community should be released on their own recognizance.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |
10. The bail system is slowly being taken over by organized crime.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |
11. Some members of the Criminal Justice System receive "kick-backs" from Bondsmen as a result of providing business for them.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |
12. Bail is sometimes used as a tool of oppression directed against blacks and other minorities.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |
13. The present bail system needs to be reorganized.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |
14. I am satisfied with the present bail system.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |
15. People out on bail stand a better chance of being acquitted than people that were not awarded pretrial release.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |
16. There should exist a universal bail scale for specific crimes throughout the United States.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| | | | |

Appendix A Continued

17. Second offenders should be denied bail.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |
18. Bail Bondsman should be eliminated all together.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |
19. Bail should be based upon the charge and financial status of the defendant.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |
20. Third Parties should not put their property up as bond.
- | | | | |
|----------------|-------|----------|-------------------|
| Strongly Agree | Agree | Disagree | Strongly Disagree |
| 1 | 2 | 3 | 4 |

APPENDIX B

QUESTIONS AND RESULTS OF THE ONE HUNDRED AND THIRTY RESPONDENTS

1. Bail is a privilege and not a right.

Strongly Agree	8
Agree	32
Disagree	36
Strongly Disagree	50
No Response	4

2. Bail should not be any higher than the individual can afford.

Strongly Agree	20
Agree	22
Disagree	56
Strongly Disagree	26
No Response	6

3. Bail should not be given to poor people because they are apt to skip town.

Strongly Agree	0
Agree	0
Disagree	44
Strongly Disagree	86
No Response	0

4. Bail for Civil Rights demonstrators of the 1960 decade was higher than necessary.

Strongly Agree	24
Agree	40
Disagree	14
Strongly Disagree	6
No Response	46

5. Bail for Civil Rights activists should be higher than the average man on the street.

Strongly Agree	0
Agree	2
Disagree	60
Strongly Disagree	66
No Response	2

Appendix B Continued

6. Bail is used to assure the defendant will appear in court.

Strongly Agree	52
Agree	72
Disagree	6
Strongly Disagree	0
No Response	0

7. Bail has other usage besides assuring the appearance of defendants in court.

Strongly Agree	14
Agree	46
Disagree	50
Strongly Disagree	14
No Response	6

8. The bail system benefits only Bondsmen.

Strongly Agree	12
Agree	6
Disagree	84
Strongly Disagree	28
No Response	0

9. People who have roots in a community should be released on their own recognizance no matter what their financial circumstances are.

Strongly Agree	16
Agree	60
Disagree	40
Strongly Disagree	8
No Response	6

10. The bail system is slowly being taken over by organized crime.

Strongly Agree	4
Agree	10
Disagree	58
Strongly Disagree	14
No Response	44

11. Some members of the Criminal Justice System receive "kickbacks" from bondsmen as a result of providing business for them.

Strongly Agree	6
Agree	38
Disagree	42
Strongly Disagree	12
No Response	32

Appendix B Continued

12. Bail is sometimes used as a tool of oppression directed against blacks and other minorities.
- | | |
|-----------------------------|----|
| Strongly Agree | 16 |
| Agree | 48 |
| Disagree | 46 |
| Strongly Disagree | 12 |
| No Response | 8 |
13. The present bail systems needs to be organized.
- | | |
|-----------------------------|----|
| Strongly Agree | 34 |
| Agree | 74 |
| Disagree | 14 |
| Strongly Disagree | 0 |
| No Response | 8 |
14. I am satisfied with the present bail system.
- | | |
|-----------------------------|----|
| Strongly Agree | 0 |
| Agree | 24 |
| Disagree | 78 |
| Strongly Disagree | 26 |
| No Response | 2 |
15. People out on bail stand a better chance of being acquitted than people that were not awarded pretrial release.
- | | |
|-----------------------------|----|
| Strongly Agree | 10 |
| Agree | 62 |
| Disagree | 36 |
| Strongly Disagree | 14 |
| No Response | 8 |
16. There should exist a universal bail scale for specific crimes throughout the United States.
- | | |
|-----------------------------|----|
| Strongly Agree | 18 |
| Agree | 40 |
| Disagree | 50 |
| Strongly Disagree | 16 |
| No Response | 2 |
17. Second offenders should be denied bail.
- | | |
|-----------------------------|----|
| Strongly Agree | 6 |
| Agree | 14 |
| Disagree | 88 |
| Strongly Disagree | 18 |
| No Response | 4 |

Appendix B Continued

18. Bail bondsmen should be eliminated all together.
- | | |
|-----------------------------|----|
| Strongly Agree | 4 |
| Agree | 22 |
| Disagree | 90 |
| Strongly Disagree | 12 |
| No Response | 2 |
19. Bail should be based upon the charge and financial status of the defendant.
- | | |
|-----------------------------|----|
| Strongly Agree | 12 |
| Agree | 56 |
| Disagree | 46 |
| Strongly Disagree | 12 |
| No Response | 4 |
20. Third parties should not put ther property up as bond.
- | | |
|-----------------------------|----|
| Strongly Agree | 4 |
| Agree | 6 |
| Disagree | 82 |
| Strongly Disagree | 34 |
| No Response | 4 |

APPENDIX C

COMPOSITE DATA OF BAIL, BY CRIMES 1950

TO 1960

THEFT BY TAKING

SEX	RACE	AGE	BAIL
1. Male	Black	49	\$200.00
2. Male	Black	28	\$300.00
3. Male	White	19	\$200.00
4. Male	Black	34	\$300.00
5. Male	Black	29	\$200.00
6. Male	Black	42	\$100.00
7. Male	White	41	\$300.00
8. Male	White	19	\$100.00
9. Male	White	24	\$200.00
10. Male	Black	25	\$200.00
11. Male	Black	37	\$300.00
12. Male	White	22	\$100.00
13. Male	Black	35	\$200.00
14. Male	Black	39	\$200.00
15. Male	White	23	\$200.00
16. Female	Black	42	\$200.00
17. Female	White	22	\$100.00
18. Female	White	22	\$100.00
19. Female	White	46	\$200.00
20. Female	Black	28	\$200.00
21. Male	White	29	\$300.00
22. Male	White	28	\$100.00
23. Male	Black	26	\$200.00
24. Male	Black	22	\$100.00
25. Male	White	72	\$200.00

Appendix C Continued

THEFT BY TAKING: 1950-1960 Continued

SEX	RACE	AGE	BAIL
26. Male	Black	36	\$500.00
27. Female	Black	36	\$100.00
28. Male	Black	24	\$100.00
29. Male	Black	24	\$100.00
30. Male	White	17	\$100.00
31. Male	Black	39	\$100.00
32. Male	Black	28	\$300.00
33. Male	Black	17	\$100.00
34. Male	White	47	\$100.00
35. Female	Black	36	\$100.00
36. Male	Black	27	\$100.00
37. Male	Black	28	\$100.00
38. Male	White	26	\$200.00
39. Male	White	32	\$200.00
40. Male	Black	34	\$200.00
41. Female	Black	21	\$500.00
42. Male	White	59	\$100.00
43. Male	White	18	\$300.00
44. Female	White	65	\$300.00
45. Male	White	17	\$100.00
46. Male	Black	40	\$200.00
47. Female	Black	17	\$300.00
48. Male	White	21	\$100.00
49. Male	Black	57	\$200.00
50. Female	Black	19	\$100.00
51. Male	White	22	\$100.00
52. Female	Black	22	\$300.00
53. Male	Black	18	\$100.00
54. Male	Black	24	\$200.00
55. Male	White	37	\$100.00

Appendix C Continued

THEFT BY TAKING: 1950-1960 Continued

SEX	RACE	AGE	BAIL
56. Male	White	39	\$100.00
57. Female	Black	22	\$100.00
58. Female	Black	17	\$200.00
59. Female	Black	20	\$200.00
60. Male	White	50	\$100.00
61. Male	Black	18	\$100.00
62. Male	White	33	\$500.00
63. Female	Black	33	\$100.00
64. Male	White	22	\$1,000.00
65. Male	White	50	\$100.00
66. Male	White	24	\$200.00
67. Male	White	17	\$100.00
68. Male	Black	41	\$300.00
69. Male	Black	17	\$100.00
70. Male	Black	39	\$200.00
71. Female	White	23	\$100.00
72. Male	Black	44	\$2,000.00
73. Female	White	46	\$100.00
74. Male	White	21	\$100.00
75. Male	White	18	\$200.00
76. Male	Black	22	\$1,000.00
77. Male	White	17	\$300.00

RAPE: 1950-1960

	RACE	AGE	BAIL
1. Male	White	30	\$2,000.00
2. Male	White	25	No Bail Granted
3. Male	Black	32	No Bail Granted
4. Male	Black	17	\$1,000.00
5. Male	Black	21	No BAIL Granted

Appendix C Continued

THEFT BY TAKING: 1950-1960 Continued

	RACE	AGE	BAIL
6. Male	Black	30	No Bail Granted
7. Male	Black	19	\$2,000.00
8. Male	Black	19	\$2,000.00
9. Male	White	35	\$1,000.00
10. Male	Black	20	No Bail Granted
11. Male	White	17	\$ 500.00
12. Male	White	22	\$ 500.00
13. Male	Black	17	No Bail Granted
14. Male	Black	54	No Bail Granted
15. Male	Black	30	No Bail Granted
16. Male	Black	23	No Bail Granted
17. Male	Black	20	No Bail Granted
18. Male	Black	18	\$1,000.00
19. Male	White	28	No Bail Granted
20. Male	Black	23	No Bail Granted
21. Male	Black	36	No Bail Granted
22. Male	White	17	No Bail Granted
23. Male	White	21	No Bail Granted
24. Male	Black	42	No Bail Granted
25. Male	Black	17	No Bail Granted
26. Male	Black	31	\$1,000.00
27. Male	White	17	\$5,000.00
28. Male	Black	26	No Bail Granted
29. Male	Black	14	No Bail Granted
30. Male	Black	27	No Bail Granted
31. Male	Black	20	No Bail Granted
32. Male	Black	17	No Bail Granted
33. Male	Black	43	No Bail Granted
34. Male	White	31	No Bail Granted
35. Male	White	22	\$1,000.00
36. Male	Black	28	No Bail Granted
37. Male	Black	34	\$2,000.00
38. Male	White	17	\$100 (Statutory)

Appendix C Continued

RAPE 1950 to 1960 Continued

	RACE	AGE	BAIL
39. Male	Black	17	No Bail Granted
40. Male	White	20	No Bail Granted
41. Male	Black	24	No Bail Granted
42. Male	White	32	\$10,000 (Statutory-Incest)
43. Male	White	43	No Bail Granted
44. Male	Black	18	No Bail Granted
45. Male	Black	52	No Bail Granted
46. Male	White	25	No Bail Granted
47. Female	White	52	No Bail Granted
48. Male	White	31	\$ 500.00
49. Male	Black	21	\$ 500.00
50. Male	Black	20	\$1,000.00
51. Male	Black	20	\$2,000.00

MURDER: 1950 to 1960

	RACE	AGE	BAIL
1. Male	Black	33	No Bail Granted
2. Male	White	25	No Bail Granted
3. Male	Black	42	No Bail Granted
4. Male	Black	65	\$2,000.00
5. Male	Black	27	\$2,000.00
6. Male	Black	40	\$2,000.00
7. Male	Black	30	No Bail Granted
8. Female	Black	28	No Bail Granted
9. Female	Black	38	\$1,500.00
10. Male	Black	20	No Bail Granted
11. Male	Black	39	No Bail Granted
12. Male	Black	29	No Bail Granted
13. Female	Black	25	No Bail Granted

Appendix C Continued

MURDER: 1950-1960 Continued

SEX	RACE	AGE	BAIL
14.Male	Black	20	No Bail Granted
15.Male	White	28	No Bail Granted
16.Male	Black	29	No Bail Granted
17.Male	Black	43	No Bail Granted
18.Male	Black	18	No Bail Granted
19.Male	Black	19	No Bail Granted
20.Male	Black	21	No Bail Granted
21.Male	Black	28	No Bail Granted
22.Male	Black	18	No Bail Granted
23.Male	Black	25	No Bail Granted
24.Male	Black	20	No Bail Granted
25.Male	White	36	\$3,000.00
26.Male	Black	23	No Bail Granted
27.Male	Black	26	No Bail Granted
28.Male	Black	20	No Bail Granted
29.Male	White	29	\$2,000.00

BURGLARY: 1950 - 1960

SEX	RACE	AGE	BAIL
1.Male	White	21	\$1,000.00
2.Male	Black	29	\$1,000.00
3.Male	White	31	\$1,000.00
4.Male	Black	19	\$2,000.00
5.Male	Black	37	\$ 300.00
6.Male	Black	28	\$1,000.00
7.Male	Black	26	\$2,000.00
8.Male	Black	17	\$5,000.00
9.Male	Black	20	\$ 100.00
10.Male	Black	19	\$10,000.00

Appendix C Continued

BURGLARY: 1950-1960 Continued

SEX	RACE	AGE	BAIL
11. Male	Black	30	\$2,000.00
12. Male	Black	40	\$3,000.00
13. Male	Black	32	\$5,000.00
14. Male	White	22	\$10,000.00
15. Male	Black	18	\$ 300.00
16. Male	White	39	\$2,000.00
17. Male	Black	33	\$2,000.00
18. Male	White	22	\$1,000.00
19. Male	White	20	\$ 100.00
20. Male	White	29	\$ 500.00
21. Male	Black	17	\$5,000.00
22. Male	Black	27	\$1,000.00
23. Male	White	23	\$5,000.00
24. Male	White	22	\$2,000.00
25. Male	White	21	\$1,000.00
26. Male	Black	17	\$1,000.00
27. Male	White	46	\$1,000.00
28. Male	Black	18	\$3,000.00
29. Male	White	19	No Bail Granted
30. Male	White	20	\$1,000.00
31. Male	White	19	\$2,000.00
32. Female	White	37	\$ 100.00
33. Male	White	28	\$1,000.00
34. Female	White	21	\$ 500.00
35. Female	White	21	\$ 500.00
36. Male	White	39	\$1,000.00
37. Male	Black	17	\$1,000.00
38. Male	Black	21	\$1,000.00
39. Male	White	29	\$10,000.00
40. Male	Black	33	\$2,000.00
41. Male	Black	28	\$2,000.00

Appensix C Continued

BURGLARY: 1950-1960 Continued

SEX	RACE	AGE	BAIL
42. Female	Black	26	\$ 200.00
43. Male	White	20	\$ 500.00
44. Male	Black	24	\$1,000.00
45. Male	White	40	\$2,000.00
46. Male	White	44	\$20,000.00
47. Male	Black	28	\$1,000.00
48. Male	White	25	\$1,000.00
49. Male	Black	32	\$2,000.00
50. Male	White	43	\$1,000.00
51. Male	Black	31	\$2,000.00
52. Male	Black	33	\$1,000.00
53. Male	White	19	\$1,000.00
54. Male	Black	18	\$20,000.00
55. Male	Black	35	\$5,000.00
56. Male	Black	24	\$10,000.00
57. Male	Black	17	\$1,000.00
58. Male	White	28	\$2,000.00
59. Male	Black	21	\$1,000.00
60. Male	White	31	\$ 500.00
61. Male	White	18	\$1,000.00
62. Male	White	19	\$ 500.00
63. Male	Black	28	\$5,000.00
64. Male	Black	21	\$2,000.00
65. Male	Black	22	\$5,000.00
66. Male	White	28	\$2,000.00
67. Female	Black	40	\$1,000.00
68. Male	White	27	\$2,000.00
69. Male	White	34	\$4,000.00
70. Male	Whtie	17	\$2,000.00
71. Female	White	19	\$2,000.00
72. Male	Black	28	\$5,000.00
73. Male	White	22	\$10,000.00

Appendix C Continued

BURGLARY: 1950-1960 Continued

SEX	RACE	AGE	BAIL
74. Male	White	20	\$ 500.00
75. Male	Black	22	\$1,000.00
76. Male	Black	30	\$2,000.00
77. Male	White	32	\$1,000.00
78. Male	Black	43	\$10,000.00
79. Male	White	28	\$3,000.00
80 Male	White	34	\$ 300.00

PROSTITUTION 1950- 1960

SEX	RACE	AGE	BAIL
1. Female	White	19	\$ 500.00
2. Female	White	28	\$ 500.00
3. Female	White	28	\$ 500.00
4. Male	Black	36	\$1,000.00
5. Female	White	34	\$1,000.00
6. Female	White	25	\$ 300.00
7. Male	Black	49	\$ 500.00
8. Female	White	38	\$1,000.00
9. Female	White	46	\$ 500.00
10. Female	White	20	\$1,500.00
11. Male	White	38	\$2,500.00
12. Female	Black	32	\$1,000.00
13. Female	White	28	\$ 200.00
14. Female	White	17	\$ 300.00
15. Female	Black	24	\$ 100.00

APPENDIX D
COMPOSITE DATA OF BAIL, BY CRIMES
1961 - 1970

THEFT BY TAKING

SEX	RACE	AGE	BAIL
1. Male	Black	22	
2. Male	Black	19	\$ 100.00
3. Male	Black	17	\$ 200.00
4. Male	Black	52	\$ 100.00
5. Male	Black	24	\$ 200.00
6. Male	Black	17	\$ 100.00
7. Female	Black	18	\$ 200.00
8. Male	Black	34	\$ 100.00
9. Male	Black	29	\$ 200.00
10. Male	White	19	\$ 300.00
11. Male	White	34	\$ 100.00
12. Female	Black	25	\$3000.00
13. Male	White	39	\$ 100.00
14. Male	Black	20	\$ 100.00
15. Male	White	20	\$ 100.00
16. Male	Black	18	\$ 100.00
17. Male	Black	34	\$ 100.00
18. Male	Black	19	\$ 300.00
19. Male	Black	27	\$ 400.00
20. Male	White	39	\$2000.00
21. Male	Black	29	\$ 100.00
22. Male	Black	24	\$ 200.00
23. Male	White	36	\$ 500.00
24. Male	Black	20	\$ 100.00
			\$ 100.00

Appendix D Continued

THEFT BY TAKING Continued

SEX	RACE	AGE	BAIL
25. Female	White	23	\$ 100.00
26. Male	Black	31	\$ 300.00
27. Male	Black	23	\$ 100.00
28. Male	Black	29	\$ 400.00
29. Female	White	23	\$ 100.00
30. Male	Black	21	\$ 500.00
31. Male	White	30	\$1000.00
32. Male	White	34	\$ 100.00
33. Male	Black	29	\$1000.00
34. Male	Black	34	\$ 500.00
35. Male	White	18	\$ 100.00
36. Male	Black	17	\$ 300.00
37. Female	White	42	\$ 200.00
38. Male	Black	18	\$ 200.00
39. Male	Black	36	\$1000.00
40. Male	Black	17	\$ 100.00
41. Male	Black	19	\$ 100.00
42. Female	Black	46	\$ 100.00
43. Female	White	45	\$ 500.00
44. Male	White	44	\$ 200.00
45. Female	Black	21	\$ 500.00
46. Female	Black	18	\$ 100.00
47. Female	Black	18	\$ 200.00
48. Female	Black	28	\$ 100.00
49. Female	White	28	\$ 200.00
50. Male	Black	33	\$ 200.00
51. Male	Black	37	\$ 200.00
52. Male	Black	17	\$ 200.00
53. Male	Black	26	\$3000.00
54. Male	Black	20	\$1000.00
55. Male	White	35	\$ 500.00
56. Male	Black	30	\$ 200.00

Appendix D Continued

THEFT BY TAKING Continued

SEX	RACE	AGE	BAIL
57. Female	White	28	\$ 100.00
58. Female	White	24	\$2000.00
59. Male	White	41	\$ 500.00
60. Male	Black	21	\$ 100.00
61. Male	Black	30	\$ 500.00
62. Male	Black	38	\$ 100.00
63. Male	White	23	\$1000.00
64. Male	White	19	\$ 300.00
65. Male	Black	34	\$ 100.00
66. Female	Black	29	\$ 500.00
67. Male	Black	29	\$ 500.00
68. Female	Black	43	\$ 200.00
69. Male	White	44	\$ 300.00
70. Male	White	60	\$ 500.00
71. Male	Black	36	\$1000.00
72. Male	Black	18	\$ 200.00
73. Female	Black	26	\$ 500.00
74. Female	Black	44	\$ 500.00
75. Female	White	20	\$ 200.00
76. Male	Black	18	\$ 300.00
77. Male	Black	17	\$ 500.00
78. Male	Black	43	\$ 200.00

RAPE: 1961-1970

SEX	RACE	AGE	BAIL
1. Male	White	21	No Bail Granted
2. Male	Black	19	No Bail Granted
3. Male	White	24	No Bail Granted
4. Male	Black	20	No Bail Granted
5. Male	Black	26	No Bail Granted

Appendix D Continued

RAPE Continued

SEX	RACE	AGE	BAIL
6. Male	Black	27	No Bail Granted
7. Male	Black	36	No Bail Granted
8. Male	Black	42	No Bail Granted
9. Male	Black	21	No Bail Granted
10. Male	Black	23	No Bail Granted
11. Male	Black	32	No Bail Granted
12. Male	White	36	No Bail Granted
13. Male	Black	26	No Bail Granted
14. Male	Black	23	No Bail Granted
15. Male	Black	21	No Bail Granted
16. Male	Black	20	No Bail Granted
17. Male	White	18	No Bail Granted
18. Male	Black	21	No Bail Granted
19. Male	Black	45	No Bail Granted
20. Male	Black	21	\$500.00
21. Male	White	28	\$10,000.00
22. Male	White	21	No Bail Granted
23. Male	Black	26	No Bail Granted
24. Male	White	19	No Bail Granted
25. Male	White	30	No Bail Granted
26. Male	Black	25	No Bail Granted
27. Male	White	22	\$10,000.00
28. Male	White	21	No Bail Granted
29. Male	White	24	No Bail Granted
30. Male	White	25	No Bail Granted
31. Male	White	29	No Bail Granted
32. Male	White	26	No Bail Granted
33. Male	White	19	
34. Male	White	25	\$2,500.00
35. Male	White	17	\$1,000.00
36. Male	Black	21	\$10,000.00

Appendix D Continued

RAPE Continued

SEX	RACE	AGE	BAIL
37. Male	White	32	\$5,000.00
38. Male	White	28	\$1,000.00

MURDER: 1961-1970

SEX	RACE	AGE	BAIL
1. Male	Black	27	No Bail Granted
2. Male	Black	29	No Bail Granted
3. Male	Black	34	No Bail Granted
4. Male	Black	44	\$5,000.00
5. Male	Black	27	No Bail Granted
6. Male	White	33	No Bail Granted
7. Male	Black	34	No Bail Granted
8. Male	Black	43	No Bail Granted
9. Female	Black	17	No Bail Granted
10. Male	Black	39	No Bail Granted
11. Male	Black	28	No Bail Granted
12. Male	Black	59	No Bail Granted
13. Male	White	39	No Bail Granted
14. Female	Black	22	No Bail Granted
15. Male	Black	43	No Bail Granted
16. Male	Black	22	No Bail Granted
17. Male	White	21	\$5,000.00
18. Female	Black	40	No Bail Granted
19. Male	Black	23	No Bail Granted
20. Male	Black	22	No Bail Granted
21. Male	Black	37	No Bail Granted
22. Male	Black	46	No Bail Granted
23. Male	White	33	No Bail Granted
24. Male	Black	32	No Bail Granted

Appendix D Continued

MURDER Continued

SEX	RACE	AGE	BAIL
25. Male	White	54	No Bail Granted
26. Male	White	22	No Bail Granted
27. Female	White	33	No Bail Granted
28. Male	White	21	No Bail Granted
29. Female	White	26	No Bail Granted
30. Female	White	45	No Bail Granted
31. Male	White	23	No Bail Granted
32. Male	White	22	No Bail Granted
33. Male	White	48	No Bail Granted
34. Female	White	69	No Bail Granted

BURGLARY: 1961 - 1970

SEX	RACE	AGE	BAIL
1. Male	Black	17	\$5,000.00
2. Male	Black	20	\$2,000.00
3. Male	White	36	\$ 500.00
4. Male	White	20	\$ 500.00
5. Male	White	29	\$5,000.00
6. Male	White	28	\$5,000.00
7. Male	White	37	\$2,500.00
8. Male	White	23	\$2,000.00
9. Male	White	35	\$3,000.00
10. Male	White	37	\$3,000.00
11. Male	Black	36	\$2,000.00
12. Male	White	17	\$ 200.00
13. Female	White	19	\$3,000.00
14. Male	Black	17	\$1,000.00
15. Male	White	34	\$5,000.00
16. Male	Black	26	\$1,000.00

Appendix D Continued

BURGLARY Continued			
SEX	RACE	AGE	BAIL
17. Male	White	17	\$ 500.00
18. Male	Black	21	\$5,000.00
19. Male	White	18	\$2,000.00
20. Male	Black	19	\$2,000.00
21. Male	Black	20	\$1,000.00
22. Male	Black	24	\$1,000.00
23. Male	Black	27	\$1,500.00
24. Male	Black	34	\$3,000.00
25. Male	Black	18	\$ 500.00
26. Male	White	27	\$2,500.00
27. Male	Black	27	\$3,000.00
28. Female	Black	21	\$2,000.00
29. Male	White	23	\$10,000.00
30. Male	Black	18	\$1,000.00
31. Male	Black	26	\$3,000.00
32. Male	White	17	\$ 500.00
33. Male	Black	23	\$1,000.00
34. Male	Black	21	\$ 500.00
35. Male	Black	25	\$3,000.00
36. Male	Black	19	\$1,000.00
37. Male	White	19	\$2,000.00
38. Male	Black	17	\$5,000.00
39. Male	White	17	\$ 100.00
40. Male	White	32	\$1,000.00
41. Male	Black	17	\$1,000.00
42. Female	Black	18	\$ 500.00
43. Female	White	34	\$1,000.00
44. Male	White	37	\$2,000.00
45. Male	White	17	\$1,000.00
46. Male	Black	17	\$ 500.00
47. Male	Black	25	\$1,000.00

Appendix D Continued

BURGLARY Continued

SEX	RACE	AGE	BAIL
48. Male	Black	26	\$1,000.00
49. Male	White	23	\$1,000.00
50. Male	White	25	\$1,000.00
51. Male	Black	23	\$2,000.00
52. Male	Black	18	\$2,500.00
53. Male	Black	26	\$2,000.00
54. Male	Black	33	\$5,000.00
55. Male	White	33	\$1,000.00
56. Male	Black	23	\$5,000.00
57. Female	Black	38	\$ 100.00
58. Male	White	17	\$1,000.00
59. Male	White	21	\$ 300.00
60. Male	Black	33	\$5,000.00
61. Male	Black	17	\$1,000.00
62. Male	Black	30	\$2,000.00
63. Male	Black	19	\$5,000.00
64. Male	White	21	\$1,000.00
65. Male	White	33	\$5,000.00
66. Male	White	17	\$1,000.00
67. Male	White	20	\$2,000.00
68. Male	Black	19	\$3,000.00
69. Male	Black	18	\$2,000.00
70. Male	Black	24	\$5,000.00
71. Male	White	28	\$1,000.00
72. Male	White	27	\$1,000.00
73. Male	White	18	\$1,000.00
74. Male	Black	25	\$2,500.00
75. Male	White	17	\$1,000.00
76. Male	Black	28	\$10,000.00
77. Male	White	23	\$2,000.00
78. Male	Black	38	\$10,000.00
79. Male	Black	35	\$2,500.00

Appendix D Continued

PROSTITUTION: 1961 - 1970

SEX	RACE	AGE	BAIL
1. Female	White	22	\$ 200.00
2. Female	White	38	\$ 200.00
3. Female	White	67	\$ 500.00
4. Male	White	34	\$ 500.00
5. Female	White	22	\$ 500.00
6. Male	White	34	\$2,000.00
7. Male	White	20	\$ 500.00
8. Female	White	23	\$1,000.00
9. Female	White	30	\$ 500.00
10. Male	Black	24	\$1,000.00
11. Female	Black	18	\$ 500.00
12. Female	White	21	\$1,000.00
13. Female	White	37	\$5,000.00
14. Female	White	22	\$ 200.00
15. Female	White	37	\$ 200.00
16. Female	White	21	\$ 500.00
17. Male	White	34	\$1,000.00
18. Female	Black	19	\$1,000.00

APPENDIX E

COMPOSITE DATA OF BAIL, BY CRIMES

1971-1978

THEFT BY TAKING

SEX	RACE	AGE	OCCUPATION	BAIL
1. Female	White	31	Housewife	\$500.00
2. Male	Black	20	Unemployed	\$500.00
3. Male	White	33	Public Relation	\$300.00
4. Male	Black	Not Given	Not Given	\$500.00
5. Male	Black	21	Janitor	\$1,000.00
6. Male	Black	21	Unemployed	\$1,000.00
7. Female	White	46	Unemployed	\$500.00
8. Female	White	21	Housewife	\$200.00
9. Male	Black	19	Maintenance	\$1,000.00
10. Male	White	23	General Motors	\$200.00
11. Female	Black	20	Unemployed	\$500.00
12. Male	White	43	Unemployed	\$400.00
13. Male	Black	22	Unemployed	\$1,000.00
14. Male	White	18	Television Repair	\$300.00
15. Female	Black	28	Housewife	\$1,000.00
16. Male	Black	38	Laborer	\$1,000.00
17. Male	White	21	Laborer	\$300.00
18. Female	White	30	Unemployed	\$200.00
19. Female	White	42	Interior Decorator	\$100.00
20. Male	White	20	Student	\$1,000.00
21. Female	Black	19	Unemployed	\$1,000.00
22. Female	White	36	Unemployed	\$50.00
23. Male	White	26	Real Estate	\$500.00

Appendix E Continued

THEFT BY TAKING Continued					
SEX	RACE	AGE	OCCUPATION	BAIL	
24.	Female	Black	19	Unemployed	\$1,000.00
25.	Male	Black	18	Unemployed	\$500.00
26.	Male	White	19	Carpenter	\$500.00
27.	Male	Black	18	Unemployed	\$500.00
28.	Male	White	Not Given	Unemployed	\$500.00
29.	Male	Black	27	Nurse	\$1,000.00
30.	Male	Black	43	Laborer	\$500.00
31.	Male	White	38	Welder	\$200.00
32.	Male	Black	28	Seamstress	\$1,000.00
33.	Male	White	19	Unemployed	\$200.00
34.	Male	Black	20	Unemployed	\$500.00
35.	Male	Black	34	Construction	\$1,000.00
36.	Male	Black	42	Cement Finisher	\$100.00
37.	Male	White	47	Accountant	\$200.00
38.	Male	Black	21	Not Given	\$500.00
39.	Male	Black	19	Unemployed	\$500.00
40.	Male	Black	24	Unemployed	\$500.00
41.	Male	Black	17	Student	\$300.00
42.	Female	Black	18	Not Given	\$100.00
43.	Male	Black	Not Given	Not Given	\$500.00
44.	Male	Black	55	Construction	\$500.00
45.	Male	White	23	Not Given	\$500.00
46.	Male	Black	37	Maintenance	\$1,000.00
47.	Female	Black	36	Disable	\$1,000.00
48.	Female	Black	16	Not Given	\$300.00
49.	Female	White	61	Not Given	\$200.00
50.	Male	Black	43	Disable	\$1,000.00
51.	Male	Black	27	Unemployed	\$1,000.00
52.	Female	White	22	Not Given	\$100.00
53.	Male	Black	18	Unemployed	\$500.00
54.	Male	White	64	Retired	\$500.00

Appendix E Continued

THEFT BY TAKING Continued

SEX	RACE	AGE	OCCUPATION	BAIL
55. Female	Black	23	Secretary	\$200.00
56. Male	Black	27	Medical Technician	\$1,000.00
57. Female	Black	20	Unemployed	\$300.00
58. Female	Black	18	Unemployed	\$100.00
59. Male	White	50	Clerk	\$300.00
60. Male	Black	21	Crane Operator	\$5,000.00
61. Female	Black	23	Secretary	\$200.00
62. Female	White	26	Not Given	\$150.00
63. Male	White	27	Medical Technician	\$1,000.00
64. Female	Black	21	Unemployed	\$2,000.00
65. Male	Black	24	Not Given	\$1,000.00
66. Male	White	20	Not Given	\$200.00
67. Male	White	24	Not Given	\$200.00
68. Female	White	18	Not Given	\$200.00
69. Male	Black	28	Not Given	\$200.00
70. Female	Black	24	Unemployed	\$2,000.00
71. Male	Black	23	Not Given	\$200.00
72. Male	White	31	Sales	\$1,000.00
73. Female	Black	46	Unemployed	\$500.00
74. Male	Black	19	Unemployed	\$500.00
75. Male	Black	47	Unemployed	\$500.00
76. Female	Black	21	Unemployed	\$1,500.00
77. Male	Black	48	Unemployed	\$1,000.00
78. Female	Black	36	Not Given	\$500.00
79. Male	White	26	Teacher	\$500.00
80. Female	Black	23	Unemployed	\$1,500.00
81. Female	White	23	Nurse	\$200.00
82. Female	White	23	Unemployed	\$500.00
83. Male	Black	18	Self-Employed	\$250.00
84. Female	Black	19	Unemployed	\$1,000.00
85. Female	Black	17	Unemployed	\$200.00
86. Female	Black	17	Unemployed	\$500.00

Appendix E Continued

THEFT BY TAKING Continued

SEX	RACE	AGE	OCCUPATION	BAIL
87. Female	Black	51	Not Given	\$100.00
88. Female	White	28	Not Given	\$500.00
89. Female	White	40	Not Given	\$300.00
90. Female	Black	26	Not Given	\$300.00
91. Male	White	18	Unemployed	\$200.00
92. Male	White	23	Waiter Assistant	\$200.00
93. Male	Black	22	Unemployed	\$300.00
94. Male	Black	28	Iron Worker	\$1,000.00
95. Male	Black	19	Warehouseman	\$300.00

RAPE: 1971-1978

SEX	RACE	AGE	OCCUPATION	BAIL
1. Male	Black	18	Unemployed	\$7,000.00
2. Male	Black	19	Laborer	No Bail Granted
3. Male	Black	23	Maintenance	No Bail Granted
4. Male	Black	17	Unemployed	\$1,000.00
5. Male	Black	25	Designer	\$1,000.00
6. Male	Black	22	Army	\$1,000.00
7. Male	Black	15	Student	\$1,000.00
8. Male	White	23	Welder	\$1,000.00
9. Male	Black	27	Construction	\$1,000.00
10. Male	Black	26	Tailor	\$1,000.00
11. Male	Black	19	Laborer	\$2,500.00
12. Male	Black	18	Unemployed	No Bail Granted
13. Male	Black	19	Janitor	No Bail Granted
14. Male	Black	23	Truck Driver	No Bail Granted
15. Male	Black	17	Cook's Helper	No Bail Granted
16. Male	White	23	Truck Driver	\$2,500.00

Appendix E Continued

RAPE Continued

SEX	RACE	AGE	OCCUPATION	BAIL	
17.	Male	Black	20	Unemployed	\$1,000.00
18.	Male	Black	28	Welder	No Bail Granted
19.	Male	Black	43	Roofer	No Bail Granted
20.	Male	Black	43	Unemployed	No Bail Granted
21.	Male	White	39	Salesman	\$5,000.00
22.	Male	White	22	Mechanic	No Bail Granted
23.	Male	Black	19	Stock Clerk	\$500.00
24.	Male	Black	22	Parks & Recreation	\$2,000.00
25.	Male	Black	32	Carpet Installer	\$1,000.00
26.	Male	Black	23	Stock Clerk	\$5,000.00
27.	Male	Black	21	Unemployed	\$5,000.00
28.	Male	Black	20	U. S. Army	\$500.00
29.	Male	Black	20	Not Given	\$1,000.00
30.	Male	Black	31	Service Manager	\$15,000.00
31.	Male	Black	24	Unemployed	\$2,000.00

MURDER: 1971-1978

SEX	RACE	AGE	OCCUPATION	BAIL	
1.	Male	White	36	Tile Setter	No Bail Granted
2.	Male	Black	43	Unemployed	No Bail Granted
3.	Male	Black	19	Unemployed	No Bail Granted
4.	Male	Black	24	Fortlift Oper.	No Bail Granted
5.	Female	White	24	Secretary	No Bail Granted
6.	Female	Black	31	Unemployed	No Bail Granted
7.	Male	White	38	Truck Driver	No Bail Granted
8.	Male	Black	47	Laborer	No Bail Granted
9.	Male	Black	39	Unemployed	No Bail Granted
10.	Male	Black	28	Auto. Repairman	\$10,000.00

Appendix E Continued

MURDER Continued					
SEX		RACE	AGE	OCCUPATION	BAIL
11.	Male	Black	39	Landscaper	\$10,000.00
12.	Male	Black	26	Construction Worker	\$10,000.00
13.	Male	Black	16	Student	\$10,000.00
14.	Male	Black	23	Clerk	\$10,000.00
15.	Female	Black	27	None Listed	\$10,000.00
16.	Male	Black	38	Painter	\$10,000.00
17.	Male	White	47	None Listed	\$10,000.00
18.	Male	Black	37	Truck Driver	\$1,000.00
19.	Male	Black	17	Laborer	\$1,000.00
20.	Male	Black	22	Unemployed	\$1,000.00
21.	Male	White	44	Fireman	\$1,000.00
22.	Male	White	51	Automobile Mechanic	\$1,000.00
23.	Male	White	24	Construction Worker	\$1,000.00
24.	Male	Black	23	Laborer	\$1,000.00
25.	Male	Black	26	Painter	No Bail Granted
26.	Male	Black	42	Salesman	No Bail Granted
27.	Male	Black	44	Not Given	No Bail Granted
28.	Male	Black	41	Heavy Equipment	\$5,000.00
29.	Male	Black	47	Carpenter	No Bail Granted
30.	Male	White	22	Heavy Equipment Op.	No Bail Granted
31.	Male	Black	19	Carpenter	No Bail Granted
32.	Male	Black	53	Cement Finisher	No Bail Granted
33.	Male	Black	32	Auto Cleaner	No Bail Granted
34.	Male	Black	47	Construction Worker	No Bail Granted
35.	Male	Black	27	Not Given	\$30,000.00
36.	Female	Black	39	Unemployed	No Bail Granted
37.	Male	Black	32	Unemployed	No Bail Granted

Appendix E Continued

BURGLARY: 1971-1978

SEX	RACE	AGE	OCCUPATION	BAIL
1. Male	Black	34	Forklift Operator	\$5,000.00
2. Male	Black	22	Unemployed	No Bail Granted
3. Male	White	18	Unemployed	\$1,000.00
4. Male	Black	23	Unemployed	\$5,000.00
5. Male	Black	17	Construction Worker	\$5,000.00
6. Male	White	21	Unemployed	\$3,000.00
7. Male	Black	23	Maintenance	No Bail Granted
8. Male	Black	21	Unemployed	No Bail Granted
9. Male	Black	20	Sales	\$5,000.00
10. Male	White	18	Carpenter	\$1,000.00
11. Male	Black	17	None Listed	\$5,000.00
12. Male	Black	20	None Listed	\$5,000.00
13. Male	White	37	Plumber	\$ 500.00
14. Male	White	17	Laborer	\$1,500.00
15. Male	White	17	Laborer	\$1,500.00
16. Male	Black	27	Truck Driver	\$2,500.00
17. Male	Black	18	Unemployed	\$2,000.00
*18. Female	White	37	Unemployed	No Bail Granted
19. Male	White	38	Unemployed	No Bail Granted
20. Male	Black	25	Thief	\$5,000.00
21. Male	White	34	Unemployed	\$1,500.00
22. Male	Black	32	Unemployed	\$20,000.00
23. Male	White	23	Self-Employed	\$1,000.00
24. Male	White	25	Forklift Operator	\$3,000.00
25. Male	White	34	Car Washer	\$4,000.00
26. Male	Black	22	Unemployed	No Bail Granted
27. Male	Black	20	Construction Worker	No Bail Granted
28. Male	White	17	Unemployed	\$2,000.00
29. Male	Black	20	Maintenance	\$10,000.00
30. Male	White	22	Mechanic	\$2,000.00
* Three Counts				

Appendix E Continued

BURGLARY Continued

SEX	RACE	AGE	OCCUPATION	BAIL
31. Male	White	26	Unemployed	\$5,000.00
32. Male	White	25	Truck Driver	\$10,000.00
33. Male	White	31	Unemployed	\$1,000.00
34. Male	White	32	Lumber Jack	\$1,000.00
35. Male	Black	19	Unemployed	\$2,000.00
36. Male	Black	26	Laborer	\$3,000.00
37. Male	Black	23	Linesman	\$5,000.00
38. Male	Black	18	Unemployed	\$3,000.00
39. Female	Black	23	Sales	\$3,000.00
40. Male	Male	25	Shipping Clerk	\$3,000.00
41. Male	Black	18	Laborer	\$1,000.00
42. Male	Black	31	Cook	\$1,000.00
43. Male	White	35	Maintenance	\$5,000.00
44. Male	White	20	Cook	\$3,000.00
45. Male	White	18	Laborer	\$ 300.00
46. Male	White	52	Painter	\$ 100.00
47. Male	Black	18	Laborer	\$5,000.00
48. Female	White	26	Not Given	\$ 100.00
49. Male	Black	20	Unemployed	\$5,000.00
50. Male	White	Not Given	Not Given	\$3,000.00
51. Male	White	52	Wood Work	\$1,000.00
52. Male	White	38	Brick Mason	\$ 100.00
53. Male	Black	19	Stock Clerk	\$3,000.00
54. Female	White	25	Unemployed	\$2,000.00
55. Male	White	17	Clerk	\$1,000.00
56. Male	White	50	Lumber Work	\$1,000.00
57. Male	Black	27	Metal Worker	\$ 500.00
58. Male	Black	17	Student	\$6,000.00
59. Female	Black	20	Unemployed	\$ 500.00
60. Male	Black	19	Unemployed	\$2,000.00
61. Male	White	18	Unemployed	\$5,000.00
62. Female	Black	24	Dancing	\$ 500.00

Appendix Continued

BURGLARY Continued

DOCKLARI Continued					
SEX		RACE	AGE	OCCUPATION	BAIL
63.	Male	Black	24	Factory Worker	\$1,000.00
64.	Male	Black	19	Yard Worker	\$2,000.00
65.	Male	Black	23	Construction	\$10,000.00
66.	Male	Black	22	Unemployed	\$3,000.00
67.	Male	White	37	Construction	\$ 500.00
68.	Male	White	24	Unemployed	\$5,000.00
69.	Male	White	21	Mechanic	\$ 500.00
70.	Male	White	26	Unemployed	\$1,000.00
71.	Male	Black	21	Park Attendant	\$1,000.00
72.	Male	Black	17	Student	\$ 500.00
73.	Male	White	18	Student	\$ 750.00
74.	Male	Black	29	Unemployed	\$5,000.00
75.	Female	White	31	Clerk	\$ 100.00
76.	Male	Black	21	File Clerk	\$1,000.00
77.	Male	Black	40	Painter	\$5,000.00
78.	Male	White	17	Unemployed	\$1,000.00
79.	Male	White	Not Given	Unemployed	\$ 500.00
80.	Male	Black	19	Janitor	\$5,000.00
81.	Female	Black	29	Unemployed	\$ 500.00
82.	Male	White	18	Laborer	\$5,000.00
83.	Male	Black	23	Painter	\$5,000.00
84.	Female	White	17	Student	\$3,000.00
85.	Male	White	25	Heating & Air Con.	\$1,500.00
86.	Male	White	17	Self Employed	\$1,000.00
87.	Male	Black	29	Cook	\$14,000.00
88.	Male	Black	21	Sanitation Worker	\$2,500.00
89.	Male	Black	21	Laborer	\$3,000.00
90.	Male	Black	27	Upholsterer	\$2,000.00
91.	Male	White	49	Brick Mason	\$1,000.00
92.	Male	White	19	Agriculture Expert	\$2,000.00
93.	Male	White	37	Musician	\$1,000.00
94.	Female	White	22	Hair Stylist	\$1,000.00
95.	Male	Black	43	Roofer	\$5,000.00

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